

Memorandum in Support

NYSBA #33

June 7, 2016

A. 9770-A

S. 7082-A

By: M. of A. Harris

By: Senator Avella

Assembly Committee: Codes

Senate Committee: Finance

Effective Date: First of November in the year next
succeeding the year in which this act
shall have become a law

AN ACT to amend the family court act, in relation to video recording of interrogations of juveniles in juvenile delinquency proceedings in family court.

THE NEW YORK STATE BAR ASSOCIATION **SUPPORTS THIS LEGISLATION**

This bill would require that any custodial interrogation of a child shall be recorded audio-visually in its entirety.

There is a growing trend in law enforcement to record custodial interrogations. Likewise, there is recognition that custodial interrogations sometimes result in false confessions, which not only deprive the innocent of liberty, but undermine public confidence in law enforcement and our system of justice. These concerns can be more serious when a child is the subject of the interrogation.

Children often do not possess the life experience to appreciate the consequences of interactions with law enforcement and the maturity to deal with the stressful circumstances that can surround police interrogations. More frequently than not, children do not understand the constitutional safeguards available to all during custodial interrogations and have not developed the judgment needed to decide appropriately whether to invoke those safeguards. Current statutes and court rules acknowledge these concerns and provide certain protections to guard against them. This bill would strengthen the current protections.

A simple but powerful tool – audio-visual recording – is readily available to help resolve the ambiguities that often surround custodial interrogations of children. Recording technology is ubiquitous, relatively inexpensive, and on the whole easy to use. Moreover, requiring its use in juvenile interrogations would be straightforward, because current law requires that interrogations of juveniles must, under most circumstances, take place at facilities designated by the Chief Administrator of the courts as suitable places

for the questioning of children. Thus, the proposed legislation could be implemented by installing recording equipment at the same designated facilities where juvenile interrogations must be conducted.

The Association's support for this legislation reflects the Association's interest in and commitment to the integrity of the New York's juvenile justice system. The Association, through its Committee on Children and the Law, has long been a leader in advocating for recording of juvenile interrogations. The Association's first bill on this issue was introduced in 2009. The Association is pleased that the Office of Court Administration has shared this priority, as evidenced by this bill.

In addition to this bill, the Association supports amending the Criminal Procedure Law to require the electronic recording of custodial interrogations in their entirety. Indeed, enacting both of these proposals into law is among the Association's legislative priorities this year.

Based on the foregoing, the New York State Bar Association **SUPPORTS** the enactment of this important legislation.