



Legislation Text

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Int. No. 125-A

By Council Members Ayala, Restler, Won, Hanif, Hudson, Cabán, Stevens, Louis, De La Rosa, Salaam, Gutiérrez and Fariás (by request of the Queens Borough President)

A Local Law to amend the administrative code of the city of New York, in relation to prohibiting the police department from collecting DNA from a minor without consent from a parent, legal guardian or attorney

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 14 of the administrative code of the city of New York is amended by adding a new section 14-199.1 to read as follows:

§ 14-199.1 Consent required to collect the DNA of a minor. A. Definitions. For purposes of this section, the following terms have the following meanings:

DNA sample. The term “DNA sample” means any amount of blood, saliva, hair or other bodily material from which deoxyribonucleic acid can be extracted.

Minor. The term “minor” means a natural person under the age of 18.

Law enforcement officer. The term “law enforcement officer” means (i) a peace officer or police officer as defined in the criminal procedure law who is employed by the city of New York, or (ii) a special patrolman appointed by the police commissioner pursuant to section 14-106 of the administrative code.

b. No member of the department or other law enforcement officer shall collect a DNA sample from a minor in connection with an investigation of an alleged criminal offense without first obtaining the written consent of such minor’s parent, legal guardian or attorney, except such consent shall not be required where the DNA sample is collected from a minor who is alleged to be the victim of such criminal offense.

c. No member of the department or other law enforcement officer shall collect a DNA sample that is

located on an item that a minor received while in the custody of, or in the course of an interaction with, a law enforcement officer or in a facility used for the questioning of such minor in connection with an alleged criminal offense.

d. No member of the department or other law enforcement officer shall collect a DNA sample from a minor in connection with an investigation of an alleged criminal offense without first obtaining the written consent of an attorney representing the minor, subject to the exceptions set forth in subdivision b, in the following circumstances:

1. When the minor's parent or legal guardian is also the parent or legal guardian of an alleged victim of the alleged criminal offense under investigation;

2. When the minor's parent or legal guardian is reasonably suspected of having committed such alleged criminal offense; or

3. Where the interest of the minor's parent or legal guardian, as demonstrated by the parent or legal guardian in the presence of a law enforcement officer, is contrary to the minor's legal interest.

e. Nothing in subdivisions b, c or d of this section shall be construed to prohibit the collection of a DNA sample from a minor pursuant to a search warrant, other court order or provision of law that authorizes such collection.

§ 2. This local law takes effect 90 days after it becomes law.

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