IN RE KEVIN K.*
(AC 28577)

DiPentima, Lavine and Lavery, Js.

Argued January 2—officially released July 22, 2008

(Appeal from Superior Court, judicial district of Tolland, Juvenile Matters at Rockville, Fuger, J. [motion to suppress]; Graziani, J. [judgment])

Jon D. Golas, for the appellant (respondent).

Raheem L. Mullins, deputy assistant state's attorney, with whom, on the brief, were *Matthew C. Gedansky*, state's attorney, and *Joseph J. Kristan, Jr.*, juvenile prosecutor, for the appellee (petitioner).

Opinion

DiPENTIMA, J. The respondent, a minor child, appeals from the trial court's judgment adjudicating him a delinquent for having committed the crimes of reckless burning in violation of General Statutes § 53a-114[1] and making a false statement in the second degree in violation of General Statutes § 53a-157b.[2] On appeal, the respondent claims that the court improperly (1) denied his motion to suppress one of his written statements and improperly admitted it into evidence at trial in violation of General Statutes § 46b-137 (a), (2) denied his motion to suppress one of his written statements and improperly admitted it into evidence at trial because the statement was obtained in violation of his rights pursuant to *Miranda* v. *Arizona*, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966), and (3) applied the law of the case doctrine to the ruling on the motion to suppress. We agree with the respondent's first claim.[3] Accordingly, we reverse the judgment of the trial court and remand the case for a new trial.

The following facts are relevant to the respondent's claims on appeal. During the course of investigating an incident that occurred outside a Family Dollar store in Rockville on October 9, 2005, Officer Charles Hicking of the Vernon police department interviewed the respondent at his home. Prior to commencing the interview on October 9, Hicking fully advised the respondent and his mother of the respondent's constitutional rights pursuant to § 46b-137 (a). Hicking had the respondent execute a juvenile waiver form and had his mother execute a parental consent form, both acknowledging that they had been advised of the respondent's rights. The respondent then made a written statement in which he described his actions regarding the incident but denied lighting anything on fire.

Hicking next interviewed A, another minor child who was involved in the incident. A provided Hicking with information that implicated the respondent in the incident. As a result of this information, Hicking returned to the respondent's home on October 11, 2005, to interview him again regarding the contradictions between his statement and the statement given by A. Hicking conducted the second interview of the respondent in the presence of his mother. The respondent gave a second statement that conflicted with his earlier statement and inculpated him in the incident. Both the respondent and his mother signed the second statement. At this October 11 interview, Hicking did not advise the respondent or his mother of the respondent's rights, nor did Hicking have them execute parental consent and juvenile waiver forms.

On the basis of the information in the second statement, Hicking issued the respondent a juvenile summons. Prior to trial, the respondent moved to suppress

the October 11, 2005 statement. The motion was denied. After a trial to the court, the respondent was adjudicated delinquent on the charges of reckless burning and false statement in the second degree and was sentenced to six months of probation.[4] This appeal followed.

"As an initial matter, we note that [o]ur standard of review of a trial court's findings and conclusions in connection with a motion to suppress is well defined. A finding of fact will not be disturbed unless it is clearly erroneous in view of the evidence and pleadings in the whole record . . . . [When] the legal conclusions of the court are challenged, [our review is plenary, and] we must determine whether they are legally and logically correct and whether they find support in the facts set out in the court's memorandum of decision . . . ." (Internal quotation marks omitted.) *State* v. *Brown*, 279 Conn. 493, 514, 903 A.2d 169 (2006).

The respondent claims that the court improperly denied his motion to suppress his second statement, given on October 11, 2005, because the statement was inadmissible pursuant to § 46b-137 (a). Specifically, the respondent claims that the statute required Hicking to advise his mother and him of his rights again before he gave his second statement. Under the facts of this case, we agree.

To resolve the respondent's claim, we must interpret the language of the statute. Matters of statutory interpretation are matters of law and, thus, require plenary review. *In re Terrance C.*, 58 Conn. App. 389, 396, 755 A.2d 232 (2000). "When construing a statute, [o]ur fundamental objective is to ascertain and give effect to the apparent intent of the legislature. . . . In other words, we seek to determine, in a reasoned manner, the meaning of the statutory language as applied to the facts of [the] case, including the question of whether the language actually does apply. . . . In seeking to determine that meaning, General Statutes § 1-2z directs us first to consider the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered. . . . When a statute is not plain and unambiguous, we also look for interpretive guidance to the legislative history and circumstances surrounding its enactment, to the legislative policy it was designed to implement, and to its relationship to existing legislation and common law principles governing the same general subject matter . . . ." (Internal quotation marks omitted.) *Windels* v. *Environmental Protection Commission*, 284 Conn. 268, 294–95, 933 A.2d 256 (2007).

The statute at issue, § 46b-137 (a), provides: "Any admission, confession or statement, written or oral,

made by a child to a police officer or Juvenile Court official shall be inadmissible in any proceeding concerning the alleged delinquency of the child making such admission, confession or statement unless made by such child in the presence of his parent or parents or guardian and *after* the parent or parents or guardian and child have been advised (1) of the child's right to retain counsel, or if unable to afford counsel, to have counsel appointed on the child's behalf, (2) of the child's right to refuse to make any statements and (3) that any statements he makes may be introduced into evidence against him." (Emphasis added.)

Both parties argue that the meaning of the statute is clear and unambiguous and, yet, they offer different interpretations of what the statute means with regard to the timing of the advisement of the child's rights and the meaning of the word "after" in this context.[5] The respondent argues that in order for his October 11, 2005 statement to be admissible, the statute required Hicking to have advised the respondent and his parent of his rights on October 11 before he gave the second statement. The petitioner, the commissioner of children and families, argues that the October 11 statement is admissible because Hicking complied with the statute by advising the respondent and his parent of his rights on October 9. Although in other contexts this court has stated that the text of the statute is clear and unambiguous; see *In re Robert M.*, 22 Conn. App. 53, 57, 576 A.2d 549 (1990); the meaning of the word "after" in this context is not clear.

To resolve the difference in interpretation of meaning, we employ our rules of statutory construction and begin with the text of the statute. Neither our Supreme Court nor this court has had previous occasion to interpret the meaning of "after" in this context.[6] We note parenthetically that our Supreme Court has acknowledged, in a different situation, the difficulty with this word: "The word 'after' . . . like 'from,' 'succeeding,' 'subsequent,' and similar words, where it is not expressly declared to be exclusive or inclusive, is susceptible of different significations, and is used in different senses, and with an exclusive or inclusive meaning, according to the subject to which it is applied; and, as it would deprive it of some of its proper significations to affix one invariable meaning to it, in all cases, it would, of course, in many of them, pervert it from the sense of the writer or speaker. Its true meaning, therefore, in any particular case, must be collected from its context and subject matter, which are only means by which the intention is ascertained . . . ." *Sands* v. *Lyon*, 18 Conn. 18, 27 (1846). Because the word "after" has different significations, we conclude that the statute, with regard to this issue, is unclear and ambiguous. "The test to determine ambiguity is whether the statute, when read in context, is susceptible to more than one reasonable interpretation." *Carmel Hollow Associates*

Ltd. Partnership v. *Bethlehem*, 269 Conn. 120, 134 n.19, 848 A.2d 451 (2004). Here, "after" could mean, as the respondent argues, that the officer was required to advise the respondent of his rights on October 11, 2005, when the officer returned, before the respondent gave the second statement. It also could mean, as the petitioner argues, that any statement after the initial advisement of rights on October 9, 2005, is admissible. Both of these interpretations fall somewhere along the continuum of interpreting the language to mean, on the one hand, that the advisement must be given immediately preceding each statement and, on the other hand, that the advisement need only be given once at the beginning of an investigation regardless of the time span of the investigation. Thus, the meaning of "after" here is not clear and unambiguous because the text of the statute permits more than one reasonable interpretation.

Having concluded that the text is not clear and unambiguous, we now must turn "to the legislative history and circumstances surrounding its enactment, to the legislative policy it was designed to implement, and to its relationship to existing legislation and common law principles governing the same general subject matter" for interpretive guidance. *Windels* v. *Environmental Protection Commission*, supra, 284 Conn. 294–95. Section 46b-137 (a) was enacted in 1967, as General Statutes § 17-66d, to respond to the United States Supreme Court decision, *In re Gault*, 387 U.S. 1, 87 S. Ct. 1428, 18 L. Ed. 2d 527 (1967), which "specifically dealt with the application of certain constitutional rights at delinquency proceedings where an adjudication of delinquency or guilt might result." *In re Ralph M.*, 211 Conn. 289, 315, 559 A.2d 179 (1989). In outlining the provisions of the legislation, Representative A. Lucille Matarese explained to the House of Representatives that in *In re Gault*, the Supreme Court held that due process under the constitution applied to Juvenile Court proceedings and that in these proceedings, "the [c]onstitutional privilege against self-incrimination, as contained in the [f]ifth [a]mendment, appl[ies] and so the child and parents shall be advised of the child['s] right to remain silent and that anything that he says may be used against him." 12 H.R. Proc., Pt. 11, 1967 Sess., p. 5055.

In *In re Gault*, the United States Supreme Court stated: "We conclude that the constitutional privilege against self-incrimination is applicable in the case of juveniles as it is with respect to adults. We appreciate that special problems may arise with respect to waiver of the privilege by or on behalf of children, and that there may well be some differences in technique—but not in principle—depending upon the age of the child and the presence and competence of parents. The participation of counsel will, of course, assist the police, [j]uvenile [c]ourts and appellate tribunals in administering the privilege. If counsel was not present for some

permissible reason when an admission was obtained, the greatest care must be taken to assure that the admission was voluntary, in the sense *not only that it was not coerced or suggested, but also that it was not the product of ignorance of rights or of adolescent fantasy, fright or despair.*" (Emphasis added.) *In re Gault*, supra, 387 U.S. 55.

Despite amendments to the statute since its enactment, the basic intent to give effect to *In re Gault*, has not been altered. The original act applied to all admissions, confessions and statements made in Juvenile Court and, thus, was not limited to those made by children. Public Acts 1967, No. 630, § 10.[7] The first time the statute was amended, in 1969, it was to enumerate specifically the rights involved instead of referring to them by cross reference, to remove reference to persons having control of the child other than parents or guardians, and to add a subsection concerning the admissibility of confessions, admissions and statements made by parents or guardians of the child relating to neglect, uncared for or dependent petitions. Public Acts 1969, No. 794, §§ 13, 14. In discussing the differences between subsection (a) and the new subsection (b), Representative James T. Healey stated on the floor of the House of Representatives that subsection (a) "spells out that a confession is inadmissible in delinquency proceedings unless it is clearly established that the confession has been obtained after a warning as to the rights." 13 H.R. Proc., Pt. 11, 1969 Sess., p. 4984.

The General Assembly amended the statute again in No. 75-183 of the 1975 Public Acts. The petitioner refers to a portion of the changes made through this amendment as evidence of legislative intent that supports her interpretation of the meaning of "after" with regard to the timing of the advisement of rights. The petitioner contends that the statute no longer contains a requirement for a contemporaneous advisement of rights because the legislature removed the words "at the time of making such admission, confession or statement" and replaced them with the word "after."[8] According to the petitioner, this change evinces the legislature's intent to expand the time frame within which an officer may take a statement after advising the child and parent of the child's rights. This argument ignores the overall changes to the statute's organization and grammatical structure made by the amendment. The legislature did not simply remove "at the time of" and replace it with "after." Furthermore, the phrase "at the time of" could not have been read in isolation in the previous version of the subsection. The phrase "at the time of" was part of a sentence that stated that any admission, confession or statement was inadmissible in any proceeding for the delinquency in the juvenile court against the person making such admission, confession or statement "unless such person, and the parent or parents or guardian of such person if he is a child as defined in section

17-53 *shall have been advised* of their rights . . . *at the time of making such admission, confession or statement*." The coupling of "shall have been advised" with "at the time of" is grammatically the equivalent of "after the parent or parents or guardian and child have been advised." Both of these phrases mean that the child and his parent or guardian must be advised of the child's rights before the child makes the statement. More importantly, the changes contained in Public Act 75-183 made the protections afforded by subsection (a) applicable only to admissions, confessions and statements made by the child and not to those made by their parents or guardians, as in the previous version. Thus, we disagree with the petitioner that the elimination of the phrase "at the time of" signified a change in the meaning of the statute with regard to the timing of the advisement of rights because, when it is viewed as part of the overhaul of the subsection, it is clear that the intent was to effect a much more significant change in who was afforded the protections of the subsection.

On the basis of this legislative history, this court concluded on another occasion that "[t]he warnings required by § 46b-137 (a) are equivalent to the *Miranda* warnings. . . . The purpose of the *Miranda* warnings is to enhance an accused's ability to exercise fifth amendment rights knowingly, intelligently and voluntarily. . . . Thus, the purpose of the § 46b-137 (a) warnings is to help an accused make a valid decision to speak or remain silent." (Citations omitted.) *In re Enrique S.*, 32 Conn. App. 431, 436, 629 A.2d 476 (1993). Moreover, although the statutory warnings themselves are equivalent to the *Miranda* warnings, the legislature, in responding to *In re Gault*, through the enactment of § 46b-137, clearly intended to go beyond the protections afforded under *Miranda*. First, and most obviously, the statute requires that the statement be made in the presence of the child's parent or guardian. Second, the statute does not require that the child be in custody. It is apparent that the legislature determined that these additional safeguards were necessary in the juvenile context in order to address the United States Supreme Court's concern that with a child, it is not just coercion, suggestion and ignorance that could lead to an involuntary admission, but also "adolescent fantasy, fright or despair." *In re Gault*, supra, 387 U.S. 55.

Furthermore, our Supreme Court, in *State* v. *Ledbetter*, 263 Conn. 1, 12–17, 818 A.2d 1 (2003), distinguished between the protections afforded by the statute and the protections under *Miranda*, stating that the statute applies only in cases concerning the alleged delinquency of a child but not in situations when a child is prosecuted as an adult. The court emphasized that this "legislative determination not to extend the protections of § 46b-137 (a) to a child who, after being subjected to custodial interrogation, is prosecuted as an adult, does not leave such a child without adequate recourse

to challenge the state's use of his or her confession. No such confession is admissible unless the police properly advise the child of his or her *Miranda* rights, and, as in any case involving custodial questioning, the [petitioner] has the burden of proving that the child understood those rights and waived them voluntarily, knowingly and intelligently." Id., 17. As the analysis in *Ledbetter* demonstrates, the court determined that though the warnings may be the equivalent, the protections afforded by the statute and by *Miranda* are distinct.

Returning to the issue in this case, we now view the language of the statute through the prism of its legislative history and intent of the legislature. Having determined that the purpose of the statute is to help the child and his parent or guardian decide whether to make a voluntary admission or to remain silent, we conclude that the advisement of rights must be given in a manner that furthers the purpose of the statute. This conclusion is in keeping with the case law concerning this statute in which our courts have held that the requirements of the statute are not merely perfunctory.

For instance, the statute also requires that a parent or guardian be present when the statement is made. This court has explored the extent of this requirement in its case law, and those cases inform our understanding of the advisement requirement. In *In re Robert M.*, this court held that an oral confession made in the absence of a child's parent was clearly inadmissible, and, therefore, under the "fruit of the poisonous tree" doctrine, a subsequent written statement also was inadmissible. *In re Robert M.*, supra, 22 Conn. App. 59–61. In that case, the police took an inculpatory oral statement from the respondent after his father had agreed to leave the interrogation room, though the father remained nearby, while the police continued to interrogate his child. Id., 55. Thereafter, the father returned to the interrogation room, and the child repeated his inculpatory statement and then reduced it to writing. Id., 55–56. "[W]e consider[ed] the [child's] oral confession to be inadmissible under General Statutes § 46b-137 (a) because it was made outside the presence of a parent." *In re Robert M.*, supra, 60.

In contrast, in another case, this court held that the requirement of a parent's presence was not so superficial that the parent's being out of sight of the child necessarily defeats the admission of the confession. In *In re Jonathan M.*, this court held that the presence requirement of § 46b-137 (a) was satisfied if the parent's presence achieved the purpose for which it is required. *In re Jonathan M.*, 46 Conn. App. 545, 551–52, 700 A.2d 1370, cert. denied, 243 Conn. 930, 701 A.2d 661 (1997). In that case, the child's mother was also outside the interrogation room when the child made the inculpatory statements.[9] Id., 551. We concluded, however, that

because the trial court found that "it is clear that the mother, from her vantage point in the hall, was in a position to monitor the tone of voice and the manner in which the questions were being asked and the manner in which [her son] was responding to them" and that the child was "aware of his mother's presence [and] could have requested her advice or intervention at any time," the mother was present, as required by § 46b-137, when the inculpatory statements were made. Id., 551–52.

As these cases demonstrate, determining whether the requirement that the parent or guardian be present has been fulfilled depends on the totality of the circumstances, and in order to make that determination, the court must look to whether, under the facts of the case, the purpose of the statute was achieved. Similarly, the advisement of the child's rights is not simply a pro forma requirement of the statute but an integral component also designed to ensure that the child and the parent or guardian have made a valid decision to make a voluntary admission. Thus, to determine whether this requirement was satisfied, we conclude that a facts and circumstances analysis should be used.[10]

In the present case, in holding that the statement was admissible, the court looked at the facts of this case to determine whether the advisement of rights requirement was satisfied with regard to the statement given on October 11, 2005. The court employed this analysis to determine whether the advisement of rights given on October 9 had expired by the time Hicking took the October 11 statement. The court stated that it was not aware of any time limit on an advisement of rights and that no evidence was presented that either the respondent or his mother was restricted in his or her ability to understand what was happening or suffered from a condition that would prevent him or her from remembering the advisement of rights given on October 9. Although we agree that the court should conduct a totality of the circumstances analysis, we disagree with the legal premise of the inquiry and, accordingly, its ultimate conclusion.

The petitioner has the burden of establishing the admissibility of the October 11 statement. See *State* v. *Ledbetter*, supra, 263 Conn. 17. Admissibility of a statement pursuant to the statute requires that the statement be taken after the child and his parent have been advised of the child's rights. As we have concluded, to determine whether the statement was taken after the advisement of rights, the court must determine whether the advisement of rights was given in a manner to help the respondent and his parent make a valid decision about whether to remain silent or to make a voluntary admission. Thus, the question, when evaluating the facts of this case, is not whether the advisement of rights on October 9, 2005, expired but, rather, whether

the purpose of the statute was achieved.

Here, Hicking questioned the respondent on October 9, 2005, and took a statement from the respondent after he had advised the respondent and his parent of his rights. Two days later, Hicking returned to question the respondent again because he had received a different account of the event at issue from another minor child, and that minor's statement had inculpated the respondent. Hicking returned precisely because he thought that the respondent's October 9 statement was false, but Hicking did not advise the respondent and his parent of his rights, in particular his right to remain silent. In addition to arguing that there was no evidence that the respondent and his parent had forgotten the advisement of rights, the petitioner argues that the fact that the respondent and his parent left the room at one point on October 11 before the respondent gave his statement is evidence that the respondent and his parent were aware of his right to remain silent, and, thus, it was not necessary for Hicking to advise them of his rights on October 11. Again, the question is not whether there is evidence demonstrating that the respondent and his parent forgot what the respondent's rights were but, rather, whether the petitioner proved that the respondent and his parent were properly assisted in their decision regarding whether the respondent should speak or remain silent.

We do not know what the respondent and his parent discussed when they left the room prior to the respondent's giving his second statement because there is no evidence of that conversation. It would be only speculation and would be improper to assume that they were discussing whether he should remain silent. Without the advisement of rights and with a police officer confronting the child with a contradictory and inculpatory statement of another, a child and his parent might perceive the child's options, in fact, to be either to reiterate his initial statement or to change his statement; they might not contemplate the option of remaining silent because of a perceived need to respond to the contradictory statement. In precisely this type of situation, in which the respondent was being asked to respond to a contradictory, inculpatory statement, Hicking should have advised the respondent and his parent of his rights during his discussion with them on October 11, 2005, before taking the second statement for the purpose of § 46b-137 to be achieved.

We hold that the court's conclusion that the inquiry regarding the admissibility of the statement centered on the expiration of the advisement of rights was incorrect legally and logically; the inquiry should have focused on whether the advisement had assisted the respondent and his parent with the decision of whether to remain silent or to make a statement on October 11, 2005. Furthermore, we do not find support in the facts set

out in the court's memorandum of decision for the conclusion that the statement was admissible because we cannot conclude under the totality of these circumstances that the respondent and his parent made a valid decision to make a voluntary admission that was not the product of coercion, suggestion, ignorance of rights or adolescent fantasy, fright or despair. Accordingly, the statement was inadmissible under § 46b-137, and the motion to suppress should have been granted.

The judgment is reversed and the case is remanded for a new trial.

In this opinion LAVERY, J., concurred.

* In accordance with the spirit and intent of General Statutes § 46b-142 (b) and Practice Book § 79-3, the names of the parties involved in this appeal are not disclosed. The records and papers of this case shall be open for inspection only to persons having a proper interest therein and upon order of the Appellate Court.

Reporter of Judicial Decisions

[1] General Statutes § 53a-114 (a) provides in relevant part: "A person is guilty of reckless burning when he intentionally starts a fire or causes an explosion, whether on his own property or another's, and thereby recklessly places a building, as defined in section 53a-100, of another in danger of destruction or damage."

[2] General Statutes § 53a-157b (a) provides in relevant part: "A person is guilty of false statement in the second degree when he intentionally makes a false written statement under oath or pursuant to a form bearing notice, authorized by law, to the effect that false statements made therein are punishable, which he does not believe to be true and which statement is intended to mislead a public servant in the performance of his official function."

[3] Because we do not believe that either of the respondent's other two claims will arise on retrial, we do not reach those issues. See *State* v. *Huckabee*, 41 Conn. App. 565, 575, 677 A.2d 452, cert. denied, 239 Conn. 903, 682 A.2d 1009 (1996).

[4] Although the respondent's probationary period may have expired, this appeal is not moot. See *In re Jeremy M.*, 100 Conn. App. 436, 443–44, 918 A.2d 944, cert. denied, 282 Conn. 927, 926 A.2d 666 (2007).

[5] Both parties agree that the statement was made in the presence of the respondent's parent.

[6] The language of this statute has been parsed on a few other occasions but not with regard to the timing of the advisement of rights. In examining the text of the statute in those other cases, our Supreme Court declined, for example, to read into the statute protections that are not present based on the plain text. See, e.g., *State* v. *Ledbetter*, 263 Conn. 1, 16, 818 A.2d 1 (2003) (rejecting interpretation of statute that would disregard words in statute in order to afford protection to children in circumstances beyond juvenile proceedings); *In re Ralph M.*, 211 Conn. 289, 314, 559 A.2d 179 (1989) (holding that respondent not entitled at transfer hearing to suppression of statements allegedly obtained in violation of statute because it was not juvenile proceeding, which is type of proceeding specifically covered by statute). In contrast to those cases, here, we are not being asked to ignore words in the statute or to extend the scope beyond plainly stated restrictions but, rather, to determine the intent of the legislature with regard to words it did use.

[7] Public Acts 1967, No. 630, § 10, provides: "Any admission, confession or statement, written or oral, shall be inadmissible in any proceeding in the juvenile court against the person making such admission, confession or statement unless such person, and the parent or parents, guardian or other person having control of such person if he is a child as defined in section 1 of this act, shall have been advised of their rights as provided by section 7 of this act at the time of making such admission, confession or statement."

[8] No. 75-183 of the 1975 Public Acts provides in part: "(a) Any admission, confession or statement, written or oral, BY A CHILD shall be inadmissible in any proceeding for delinquency in the juvenile court against the [person] CHILD making such admission, confession or statement unless [such person, and the parent or parents or guardian of such person if he is a child as

defined in section 17-53 shall have been advised of their rights to retain counsel and that if they are unable to afford counsel, to have counsel appointed to represent them, that they have a right to refuse to make any statements and that any statements they make may be introduced in evidence against them, at the time of making such admission, confession or statement] MADE BY SUCH CHILD IN THE PRESENCE OF HIS PARENT OR PARENTS OR GUARDIAN AND AFTER THE PARENT OR PARENTS OR GUARDIAN AND CHILD HAVE BEEN ADVISED (1) OF THE CHILD'S RIGHT TO RETAIN COUNSEL, OR IF UNABLE TO AFFORD COUNSEL, TO HAVE COUNSEL APPOINTED ON THE CHILD'S BEHALF, (2) OF THE CHILD'S RIGHT TO REFUSE TO MAKE ANY STATEMENTS AND (3) THAT ANY STATEMENTS HE MAKES MAY BE INTRODUCED INTO EVIDENCE AGAINST HIM." We note that the additions to the statute made by the act are in capital letters and the deletions are in brackets.

[9] The child's "mother left the interview room when it became clear to her that [the child] had taken part in the murder of her mother because she could no longer bear to look across the table at him. When she left the room, the police ceased questioning the [child]. The [child's] mother was immediately told that the interview with her son could not continue in her absence. In order that the interview could continue, a detective situated a chair in the hallway just outside the open door to the interview room, approximately six to eight feet from her son. From this vantage point, the respondent's mother could hear and be heard, although she could not see her son without standing in the doorway. The record supports the trial court's finding that the respondent was aware of her presence and that a portion of the interview in which inculpatory statements were made was conducted while the mother was seated in the hall." *In re Jonathan M.*, supra, 46 Conn. App. 551.

[10] We note that the United States Supreme Court has held, in the *Miranda* context, that the "totality-of-the-circumstances approach is adequate to determine whether there has been a waiver even where interrogation of juveniles is involved. . . . This includes evaluation of the juvenile's age, experience, education, background, and intelligence, and into whether he has the capacity to understand the warnings given him, the nature of his Fifth Amendment rights, and the consequences of waiving those rights. *Fare* v. *Michael C.*, [442 U.S. 707, 725, 99 S. Ct. 2560, 61 L. Ed. 2d 197 (1979)]." (Internal quotation marks omitted.) *State* v. *Perez*, 218 Conn. 714, 725, 591 A.2d 119 (1991).