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I N S E N A T E

January 29, 2010

Introduced by Sens. MONTGOMERY, DUANE, HASSELL-THOMPSON, ONORATO,
SCHNEIDERMAN -- read twice and ordered printed, and when printed to be
committed to the Committee on Children and Families

AN ACT to amend the family court act, in relation to orders of disposition

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 352.2 of the family court act, as
2 added by chapter 920 of the laws of 1982, is amended to read as follows:
3 1. (A) Upon the conclusion of the dispositional hearing, the court
4 shall enter an order of disposition:
5 [(a)] (I) conditionally discharging the respondent in accord with
6 section 353.1; or
7 [(b)] (II) putting the respondent on probation in accord with section
8 353.2; or
9 [(c)] (III) continuing the proceeding and placing the respondent in
10 accord with section 353.3; or
11 [(d)] (IV) placing the respondent in accord with section 353.4; or
12 [(e)] (V) continuing the proceeding and placing the respondent under a
13 restrictive placement in accord with section 353.5.
14 (B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-
15 SION, THE COURT SHALL NOT PLACE A RESPONDENT IN THE CUSTODY OF THE
16 COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES PURSUANT TO
17 EITHER SUBPARAGRAPHS (III) OR (IV) OF PARAGRAPH (A) OF THIS SUBDIVISION
18 UNLESS THE COURT DETERMINES THAT (I) CONDITIONAL DISCHARGE OF THE
19 RESPONDENT PURSUANT TO SECTION 351.1 WOULD NOT BE APPROPRIATE; AND (II)
20 THAT SUCH RESPONDENT POSES A SIGNIFICANT RISK TO PUBLIC SAFETY AND THAT
21 NO AVAILABLE ALTERNATIVES TO PLACEMENT COULD ADEQUATELY MITIGATE SUCH
22 RISK. THE COURT SHALL NOTIFY THE OFFICE OF CHILDREN AND FAMILY SERVICES
23 OF SUCH DETERMINATION.
24 S 2. Subdivision 3 of section 352.2 of the family court act, as added
25 by chapter 920 of the laws of 1982, is amended to read as follows:
26 3. The order shall state the court's reasons for the particular disposition,
27 including[,]:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 (A) in the case of a restrictive placement pursuant to section 353.5,
2 the specific findings of fact required in such section[.]; AND
3 (B) IN THE CASE OF PLACEMENT OF THE RESPONDENT IN THE CUSTODY OF THE
4 OFFICE OF CHILDREN AND FAMILY SERVICES EITHER PURSUANT TO SECTION 353.3
5 OR 353.4, THE SPECIFIC FINDINGS OF FACT REQUIRED BY PARAGRAPH (B) OF
6 SUBDIVISION ONE OF THIS SECTION.
7 S 3. This act shall take effect April 1, 2010; provided, however, if
8 this act shall become a law after such date it shall take effect imme-
9 diately and shall be deemed to have been in full force and effect on and
10 after April 1, 2010.