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Cal. No. 617

I N S E N A T E

January 29, 2010

Introduced by Sens. MONTGOMERY, ADAMS, DUANE, ESPADA, HASSELL-THOMPSON, KRUEGER, ONORATO, PARKER, SAMPSON, SCHNEIDERMAN, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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 OF THIS PART; or
7 [(b)] (II) putting the respondent on probation in accord with section
8 353.2 OF THIS PART; or
9 [(c)] (III) continuing the proceeding and placing the respondent in
10 accord with section 353.3 OF THIS PART; or
11 [(d)] (IV) placing the respondent in accord with section 353.4 OF THIS
12 PART; or
13 [(e)] (V) continuing the proceeding and placing the respondent under a
14 restrictive placement in accord with section 353.5 OF THIS PART.
15 (B) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVI-
16 SION, THE COURT SHALL NOT PLACE A RESPONDENT IN THE CUSTODY OF THE
17 COMMISSIONER OF THE OFFICE OF CHILDREN AND FAMILY SERVICES PURSUANT TO
18 SUBDIVISION THREE OF SECTION 353.3 OF THIS PART UNLESS THE COURT DETER-
19 MINES THAT:

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

LBD15595-10-0

1 (I) CONDITIONAL DISCHARGE OF THE RESPONDENT IN ACCORD WITH SECTION
2 353.1 OF THIS PART, OR PUTTING THE RESPONDENT ON PROBATION IN ACCORD
3 WITH SECTION 353.2 OF THIS PART, WOULD NOT BE APPROPRIATE; AND

4 (II) THAT PLACEMENT OF THE RESPONDENT IS CONSISTENT WITH THE NEED FOR
5 THE PROTECTION OF THE COMMUNITY AND THE BEST INTERESTS OF THE CHILD, AND
6 THAT NO AVAILABLE ALTERNATIVES TO PLACEMENT COULD ADEQUATELY MITIGATE
7 SUCH NEED.

8 S 2. Paragraph (a) of subdivision 2 and subdivision 3 of section 352.2
9 of the family court act, paragraph (a) of subdivision 2 as amended by
10 chapter 880 of the laws of 1985 and subdivision 3 as added by chapter
11 920 of the laws of 1982, are amended to read as follows:

12 (a) In determining an appropriate order the court shall consider AND
13 SHALL DIRECT A DISPOSITION THAT SPECIFICALLY MEETS the needs and best
14 interests of the respondent as well as the need for protection of the
15 community. If the respondent has committed a designated felony act the
16 court shall determine the appropriate disposition in accord with section
17 353.5 OF THIS PART. In all other cases the court shall order the least
18 restrictive available alternative enumerated in subdivision one which is
19 consistent with the needs and best interests of the respondent and the
20 need for protection of the community.

21 3. The order shall state the court's reasons for the particular dispo-
22 sition, including[,]:

23 (A) in the case of a restrictive placement pursuant to section 353.5
24 OF THIS PART, the specific findings of fact required in such section[.];
25 AND

26 (B) IN THE CASE OF PLACEMENT OF THE RESPONDENT IN THE CUSTODY OF THE
27 OFFICE OF CHILDREN AND FAMILY SERVICES EITHER PURSUANT TO SECTION 353.3
28 OR 353.4 OF THIS PART, THE SPECIFIC FINDINGS OF FACT REQUIRED BY PARA-
29 GRAPH (B) OF SUBDIVISION ONE OF THIS SECTION.

30 S 3. This act shall take effect on the sixtieth day after it shall
31 have become a law.