S T A T E O F N E W Y O R K

4332

2009-2010 Regular Sessions

I N A S S E M B L Y

February 3, 2009

Introduced by M. of A. V. LOPEZ, COLTON, SCHIMEL -- Multi-Sponsored by -- M. of A. BROOK-KRASNY, GLICK, REILLY -- read once and referred to the Committee on Children and Families

AN ACT to amend the family court act, in relation to staying, modifying or terminating certain orders in juvenile delinquency proceedings

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

Section 1. Section 355.1 of the family court act is amended by adding two new subdivisions 4 and 5 to read as follows:

4. AT ANY TIME AFTER THE ENTRY OF A FINDING UNDER SECTION 352.1 THE COURT MAY, UPON MOTION OF THE RESPONDENT, VACATE SUCH FINDING IN ACCORDANCE WITH SECTION 440.10 OF THE CRIMINAL PROCEDURE LAW.

5. AT ANY TIME AFTER THE ENTRY OF A DISPOSITIONAL ORDER UNDER SECTION 352.2 THE COURT MAY:

(A) UPON MOTION OF THE RESPONDENT VACATE SUCH DISPOSITION IN ACCORDANCE WITH SECTION 440.20 OF THE CRIMINAL PROCEDURE LAW; OR

(B) UPON MOTION OF THE PRESENTMENT AGENCY SET ASIDE SUCH DISPOSITION IN ACCORDANCE WITH SECTION 440.40 OF THE CRIMINAL PROCEDURE LAW.

S 2. Subdivision 1 of section 355.1 of the family court act, as amended by chapter 398 of the laws of 1983, is amended to read as follows:

1. Upon a showing of a substantial change of circumstances, the court may on its own motion or on motion of the respondent or his parent or person responsible for his care:

(a) grant a new [fact-finding or] dispositional hearing; or

(b) stay execution of, set aside, modify, terminate or vacate any order issued in the course of a proceeding under this article.

S 3. This act shall take effect immediately.

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

LBD06442-01-9