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

3223

2009-2010 Regular Sessions

I N A S S E M B L Y

January 23, 2009

Introduced by M. of A. KOON -- Multi-Sponsored by -- M. of A. JOHN, MAGEE, MAYERSOHN -- read once and referred to the Committee on Children and Families

AN ACT to amend the family court act, in relation to lengthening the time of placement for certain youthful offenders and to repeal certain provisions of such act relating thereto

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

Section 1. The opening paragraph and subparagraphs (i), (ii) and (iii) of paragraph (a) of subdivision 4 of section 353.5 of the family court act, the opening paragraph and subparagraphs (ii) and (iii) of paragraph (a) as added by chapter 920 of the laws of 1982 and subparagraph (i) of paragraph (a) as amended by chapter 419 of the laws of 1987, are amended to read as follows:

When the order is for a restrictive placement [in the case of a youth found to have committed a designated class A felony act],

(i) the respondent shall be placed with the [division for youth] OFFICE OF CHILDREN AND FAMILY SERVICES for an initial period of:

(A) five years FOR A CLASS A DESIGNATED FELONY ACT;

(B) FOUR YEARS FOR A CLASS B OR C DESIGNATED FELONY ACT; AND

(C) THREE YEARS FOR A CLASS D OR E DESIGNATED FELONY ACT.

If the respondent has been in detention pending disposition, the initial period of placement ordered under this section shall be credited with and diminished by the amount of time spent by the respondent in detention prior to the commencement of the placement unless the court finds that all or part of such credit would not serve the needs and best interests of the respondent or the need for protection of the community.

(ii) the respondent shall initially be confined in a secure facility for a period set by the order, to be:

(A) not less than [twelve] EIGHTEEN nor more than [eighteen] TWENTY-FOUR months FOR A CLASS A DESIGNATED FELONY ACT;

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

LBD02426-01-9

(B) NOT LESS THAN TWELVE NOR MORE THAN EIGHTEEN MONTHS FOR A CLASS B OR C DESIGNATED FELONY ACT; AND

(C) NOT LESS THAN SIX MONTHS NOR MORE THAN TWELVE MONTHS FOR A CLASS D OR E DESIGNATED FELONY ACT; provided, however, where the order of the court [is made in compliance with subdivision five] INVOLVES A CLASS A DESIGNATED FELONY, the respondent shall initially be confined in a secure facility for [eighteen] TWENTY-FOUR months.

(iii) after the period set under [clause] SUBPARAGRAPH (ii), the respondent shall be placed in a residential facility for:

(A) a period of [twelve] TWENTY-FOUR months FOR A CLASS A DESIGNATED FELONY ACT;

(B) A PERIOD OF EIGHTEEN MONTHS FOR A CLASS B OR C DESIGNATED FELONY ACT; AND

(C) A PERIOD TO BE NOT LESS THAN SIX NOR MORE THAN TWELVE MONTHS FOR A CLASS D OR E DESIGNATED FELONY ACT.

S 2. Paragraph (b) of subdivision 4 of section 353.5 of the family court act, as amended by chapter 398 of the laws of 1983, is amended to read as follows:

(b) Notwithstanding any other provision of law, during the [first twelve months of the respondent's placement] PERIOD OF THE RESPONDENT'S INITIAL CONFINEMENT PURSUANT TO SUBPARAGRAPH (II) OF PARAGRAPH (A), no motion, hearing or order may be made, held or granted pursuant to section 355.1; provided, however, that during such period a motion to vacate the order may be made pursuant to SECTION 355.1, but only upon grounds set forth in section 440.10 of the criminal procedure law.

S 3. Subparagraph (iv) of paragraph (c) of subdivision 4 of section 353.5 of the family court act is REPEALED.

S 4. Subdivision 5 of section 353.5 of the family court act is REPEALED.

S 5. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided that the provisions of this act shall apply to offenses committed on or after the date on which this act shall have become a law.