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

2696

2009-2010 Regular Sessions

I N S E N A T E

February 26, 2009

Introduced by Sens. AUBERTINE, ADDABBO, C. JOHNSON, KLEIN, ONORATO, SAMPSON, SAVINO -- 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 making juvenile delinquents criminally responsible for the crime of cemetery desecration in the first degree

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

Section 1. Subdivision 1 of section 353.1 of the family court act, as added by chapter 920 of the laws of 1982, is amended to read as follows:

1. The court may conditionally discharge the respondent if the court, having regard for the nature and circumstances of the crime and for the history, character and condition of the respondent, is of the opinion that consistent with subdivision two of section 352.2, neither the public interest nor the ends of justice would be served by a placement and that probation supervision is not appropriate, PROVIDED THAT THE COURT SHALL NOT CONDITIONALLY DISCHARGE THE RESPONDENT WHERE THE RESPONDENT IS FOUND TO HAVE COMMITTED THE CRIME OF CEMETERY DESECRATION IN THE FIRST DEGREE AS SET FORTH IN SECTION 145.23 OF THE PENAL LAW.

S 2. Section 353.2 of the family court act is amended by adding a new subdivision 1-a to read as follows:

1-A. THE COURT SHALL, AT A MINIMUM, ORDER A PERIOD OF PROBATION WHERE THE RESPONDENT IS FOUND TO HAVE COMMITTED THE CRIME OF CEMETERY DESECRATION IN THE FIRST DEGREE AS SET FORTH IN SECTION 145.23 OF THE PENAL LAW, AND REQUIRE SUCH RESPONDENT TO MAKE RESTITUTION PURSUANT TO SECTION 353.6, REGARDLESS OF THE AGE OF THE RESPONDENT. NOTHING SET FORTH IN THIS SUBDIVISION SHALL PREVENT THE COURT FROM ORDERING THE PLACEMENT OF THE RESPONDENT PURSUANT TO SECTION 353.3.

S 3. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.

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

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