

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. MONTGOMERY, ADAMS, DUANE, HASSELL-THOMPSON, KRUEGER, PARKER, SAMPSON -- 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 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 EITHER SUBPARAGRAPHS (III) OR (IV) OF PARAGRAPH (A) OF THIS SUBDIVISION  
19 UNLESS THE COURT DETERMINES THAT:  
20 (I) CONDITIONAL DISCHARGE OF THE RESPONDENT IN ACCORD WITH SECTION  
21 351.1 OF THIS PART, OR PUTTING THE RESPONDENT ON PROBATION IN ACCORD  
22 WITH SECTION 353.2 OF THIS PART, WOULD NOT BE APPROPRIATE; AND

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

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

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

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

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

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

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

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