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

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2011-2012 Regular Sessions

I N A S S E M B L Y

April 11, 2011

Introduced by M. of A. SCARBOROUGH, GABRYSZAK, SCHIMEL, DINOWITZ, GLICK, PAULIN, COOK, O'DONNELL, GOTTFRIED, ROSENTHAL, JAFFEE, ORTIZ, LENTOL, CLARK, PHEFFER, ROBINSON, BARRON, GUNTHER, CASTRO, MILLMAN, TITONE, TITUS, MAGEE -- Multi-Sponsored by -- M. of A. AUBRY, BURLING, CAMARA, GIGLIO, LUPARDO, McENENY, MENG, PEOPLES-STOKES, SAYWARD, TOWNS -- read once and referred to the Committee on Children and Families

AN ACT to amend the family court act, in relation to sexually exploited children

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

Section 1. Paragraphs (d) and (e) of subdivision 4 of section 305.2 of the family court act, as added by section 3 of part G of chapter 58 of the laws of 2010, are amended to read as follows:

(d) take the child who such officer has decided to take into custody in accordance with this section or section 305.1 of this part for violating the provisions of section 230.00 OR 240.37 of the penal law, to an available short-term safe house as defined in subdivision two of section four hundred forty-seven-a of the social services law; or

(e) take [the] A child[, if it] WHO appears [that such] TO BE A SEXUALLY EXPLOITED child [is a sexually exploited child] as defined in paragraph (a), (c) or (d) of subdivision one of section four hundred forty-seven-a of the social services law[,] to an available short-term safe house AS DEFINED IN SUBDIVISION TWO OF SECTION FOUR HUNDRED FORTY-SEVEN-A OF THE SOCIAL SERVICES LAW, but only if the child consents to be taken.

S 2. Subdivision 3 of section 311.4 of the family court act, as amended by section 4 of part G of chapter 58 of the laws of 2010, is amended to read as follows:

3. In any proceeding under this article based upon an arrest for an act of prostitution OR WHERE IT APPEARS THAT THE RESPONDENT ENGAGED IN LOITERING FOR THE PURPOSE OF ENGAGING IN A PROSTITUTION OFFENSE, there

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

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is a presumption that the respondent meets the criteria as a victim of a severe form of trafficking as defined in section 7105 of title 22 of the United States Code (Trafficking Victims Protection Act of 2000). Upon the motion of the respondent, without the consent of the presentment agency, a petition alleging that the respondent is in need of supervision shall be substituted for the delinquency petition. If, however, the respondent WAS NOT INTIMIDATED, FORCED, THREATENED OR COERCED INTO ENGAGING IN PROSTITUTION OR LOITERING FOR THE PURPOSES OF ENGAGING IN A PROSTITUTION OFFENSE, OR has been previously adjudicated as a juvenile delinquent under this article for an act which would be a crime pursuant to article two hundred thirty of the penal law, if the respondent was an adult, OR HAS BEEN PREVIOUSLY ADJUDICATED UNDER SECTION SEVEN HUNDRED FIFTY-TWO OF THIS CHAPTER AND PLACED WITH A COMMISSIONER OF SOCIAL SERVICES PURSUANT TO SUBDIVISION (A) OF SECTION SEVEN HUNDRED FIFTY-SIX OF THIS CHAPTER, or expresses a current unwillingness to cooperate with specialized services for sexually exploited youth, continuing with the delinquency proceeding shall be within the court's discretion. The necessary findings of fact to support the continuation of the delinquency proceeding shall be reduced to writing and made part of the court record. If, subsequent to issuance of a substitution order under this subdivision and prior to the conclusion of the fact finding hearing on the petition alleging that the respondent is a person in need of supervision, the respondent is not in substantial compliance with a lawful order of the court, the court may, in its discretion, substitute the original petition alleging that the respondent is a juvenile delinquent for the petition alleging that the respondent is in need of supervision.

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