§ 320.5. The initial appearance; release or detention. 1. At the initial appearance, the court in its discretion may release the respondent or direct his detention.

2. Rules of court shall define permissible terms and conditions of release. The court may in its discretion release the respondent upon such terms and conditions as it deems appropriate. The respondent shall be given a written copy of any such terms and conditions. The court may modify or enlarge such terms and conditions at any time prior to the expiration of the respondent's release.

3. (a) The court shall not direct detention unless available alternatives to detention, including conditional release, would not be appropriate, and the court finds that unless the respondent is detained:

(i) there is a substantial probability that he or she will not appear in court on the return date; or

(ii) there is a serious risk that he or she may before the return date commit an act which if committed by an adult would constitute a crime.

(b) Any finding directing detention pursuant to paragraph (a) of this subdivision made by the court shall state the facts, the level of risk the youth was assessed pursuant to a detention risk assessment instrument approved by the office of children and family services, and the reasons for such finding including, if a determination is made to place a youth in detention who was assessed at a low or medium risk on such a risk assessment instrument, the particular reasons why detention was determined to be necessary.

(c) If the court makes a finding that detention is necessary pursuant to subparagraphs (i) and (ii) of paragraph (a) of this subdivision, the court may consider, where applicable, as a condition of release, electronic monitoring of the respondent, if such electronic monitoring would significantly reduce the substantial probability that the respondent would not return to court on the return date, or the serious risk that the respondent may before the return date commit an act that if committed by an adult would constitute a crime.

(d) If the respondent may be a sexually exploited child as defined in subdivision one of section four hundred forty-seven-a of the social services law, the court may direct the respondent to an available

short-term safe house as a condition of release.

4. At the initial appearance the presentment agency may introduce the respondent's previous delinquency findings entered by a family court. If the respondent has been fingerprinted for the current charge pursuant to section 306.1, the presentment agency may also introduce the fingerprint records maintained by the division of criminal justice services. The clerk of court and the probation service shall cooperate with the presentment agency in making available the appropriate records. At the conclusion of the initial appearance such fingerprint records shall be returned to the presentment agency and shall not be made a part of the court record.

5. Upon a finding of facts and reasons which support a detention order pursuant to subdivision three of this section, the court shall also determine and state in any order directing detention:

(a) whether the continuation of the respondent in the respondent's home would be contrary to the best interests of the respondent based upon, and limited to, the facts and circumstances available to the court at the time of the initial appearance; and

(b) where appropriate and consistent with the need for protection of the community, whether reasonable efforts were made prior to the date of the court appearance that resulted in the detention order issued in accordance with this section to prevent or eliminate the need for removal of the respondent from his or her home or, if the respondent had been removed from his or her home prior to the initial appearance, where appropriate and consistent with the need for protection of the community, whether reasonable efforts were made to make it possible for the respondent to safely return home.