§ 352.2. Order of disposition. 1. Upon the conclusion of the dispositional hearing, the court shall enter an order of disposition:

(a) conditionally discharging the respondent in accord with section 353.1; or

(b) putting the respondent on probation in accord with section 353.2; or

(c) continuing the proceeding and placing the respondent in accord with section 353.3; or

(d) placing the respondent in accord with section 353.4; or

(e) continuing the proceeding and placing the respondent under a restrictive placement in accord with section 353.5.

2. (a) In determining an appropriate order the court shall consider the needs and best interests of the respondent as well as the need for protection of the community. If the respondent has committed a designated felony act the court shall determine the appropriate disposition in accord with section 353.5. In all other cases the court shall order the least restrictive available alternative enumerated in subdivision one which is consistent with the needs and best interests of the respondent and the need for protection of the community.

(b) In an order of disposition entered pursuant to section 353.3 or 353.4 of this chapter, or where the court has determined pursuant to section 353.5 of this chapter that restrictive placement is not required, which order places the respondent with the commissioner of social services or with the office of children and family services for placement with an authorized agency or class of authorized agencies or in such facilities designated by the office of children and family services as are eligible for federal reimbursement pursuant to title IV-E of the social security act, the court in its order shall determine (i) that continuation in the respondent's home would be contrary to the best interests of the respondent; or in the case of a respondent for whom the court has determined that continuation in his or her home would not be contrary to the best interests of the respondent, that continuation in the respondent's home would be contrary to the need for protection of the community; (ii) that where appropriate, and where consistent with the need for protection of the community, reasonable efforts were made prior to the date of the dispositional hearing to

prevent or eliminate the need for removal of the respondent from his or her home, or if the child was removed from his or her home prior to the dispositional hearing, where appropriate and where consistent with the need for safety of the community, whether reasonable efforts were made to make it possible for the child to safely return home. If the court determines that reasonable efforts to prevent or eliminate the need for removal of the child from the home were not made but that the lack of such efforts was appropriate under the circumstances, or consistent with the need for protection of the community, or both, the court order shall include such a finding; and (iii) in the case of a child who has attained the age of sixteen, the services needed, if any, to assist the child to make the transition from foster care to independent living.

(c) For the purpose of this section, when an order is entered pursuant to section 353.3 or 353.4 of this article, reasonable efforts to prevent or eliminate the need for removing the respondent from the home of the respondent or to make it possible for the respondent to return safely to the home of the respondent shall not be required where the court determines that:

(1) the parent of such respondent has subjected the respondent to aggravated circumstances, as defined in subdivision fifteen of section 301.2 of this article;

(2) the parent of such child has been convicted of (i) murder in the first degree as defined in section 125.27 or murder in the second degree as defined in section 125.25 of the penal law and the victim was another child of the parent; or (ii) manslaughter in the first degree as defined in section 125.20 or manslaughter in the second degree as defined in section 125.15 of the penal law and the victim was another child of the parent, provided, however, that the parent must have acted voluntarily in committing such crime;

(3) the parent of such child has been convicted of an attempt to commit any of the foregoing crimes, and the victim or intended victim was the child or another child of the parent; or has been convicted of criminal solicitation as defined in article one hundred, conspiracy as defined in article one hundred five or criminal facilitation as defined in article one hundred fifteen of the penal law for conspiring, soliciting or facilitating any of the foregoing crimes, and the victim or intended victim was the child or another child of the parent;

(4) the parent of such respondent has been convicted of assault in the second degree as defined in section 120.05, assault in the first degree as defined in section 120.10 or aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law, and the commission of one of the foregoing crimes resulted in serious physical injury to the respondent or another child of the parent;

(5) the parent of such respondent has been convicted in any other jurisdiction of an offense which includes all of the essential elements of any crime specified in subparagraph two, three or four of this paragraph, and the victim of such offense was the respondent or another child of the parent; or

(6) the parental rights of the parent to a sibling of such respondent have been involuntarily terminated;

unless the court determines that providing reasonable efforts would be in the best interests of the child, not contrary to the health and safety of the child, and would likely result in the reunification of the parent and the child in the foreseeable future. The court shall state such findings in its order.

If the court determines that reasonable efforts are not required because of one of the grounds set forth above, a permanency hearing shall be held pursuant to section 355.5 of this article within thirty days of the finding of the court that such efforts are not required. The social services official or the office of children and family services, where the respondent was placed with such office, shall subsequent to the permanency hearing make reasonable efforts to place the respondent in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the respondent as set forth in the permanency plan approved by the court. If reasonable efforts are determined by the court not to be required because of one of the grounds set forth in this paragraph, the social services official may file a petition for termination of parental rights in accordance with section three hundred eighty-four-b of the social services law.

(d) For the purposes of this section, in determining reasonable efforts to be made with respect to the respondent, and in making such reasonable efforts, the respondent's health and safety shall be the paramount concern.

(e) For the purpose of this section, a sibling shall include a half-sibling.

* (f)(1) In a social services district operating an approved juvenile justice services close to home initiative pursuant to section four hundred four of the social services law, upon the effective date of a risk assessment instrument and any risk assessment process that have been approved by the office of children and family services pursuant to subdivision two-a of section 351.1 of this part, the court shall give due consideration to the results of the validated risk assessment and any such process provided to the court pursuant to such subdivision when determining the appropriate disposition for the respondent.

(2) Any order of the court directing the placement of a respondent into a residential program shall state:

(i) the level of risk the youth was assessed at pursuant to the validated risk assessment instrument; and

(ii) if a determination is made to place a youth in a higher level of placement than appears warranted based on such risk assessment instrument and any approved risk assessment process, the particular reasons why such placement was determined to be necessary for the protection of the community and to be consistent with the needs and best interests of the respondent; and

(iii) that a less restrictive alternative that would be consistent with the needs and best interests of the respondent and the need for protection of the community is not available.

* NB Repealed March 31, 2028

* (g)(i) Once a validated risk assessment instrument and any risk assessment process is a required part of each probation investigation ordered under subdivision two of section 351.1 of this part and provided to the court in accordance with subdivision two-b of such section, the court shall give due consideration to the results of such validated risk assessment and any such process when determining the appropriate disposition for the respondent.

(ii) Any order of the court directing the placement of a respondent into a residential program shall state:

(A) the level of risk the youth was assessed pursuant to the validated risk assessment instrument; and

(B) if a determination is made to place a youth in a higher level of

placement than appears warranted based on such risk assessment instrument and any risk assessment process, the particular reasons why such placement was determined to be necessary for the protection of the community and to be consistent with the needs and best interests of the respondent; and

(C) that a less restrictive alternative that would be consistent with the needs and best interests of the respondent and the need for protection of the community is not available.

* NB Repealed March 31, 2028

3. The order shall state the court's reasons for the particular disposition, including, in the case of a restrictive placement pursuant to section 353.5, the specific findings of fact required in such section.

4. Where a youth receives a juvenile delinquency adjudication for conduct committed when the youth was sixteen years of age or, commencing on October first, two thousand nineteen, seventeen years of age, that would solely constitute a violation as defined in subdivision three of section 10.00 of the penal law and if the presumption pursuant to subdivision three of section 345.1 of this article has been rebutted, the court shall have the power to enter an order of disposition in accordance with paragraph (a) of subdivision one of this section. The court shall not order detention, probation or placement of a youth solely adjudicated under this subdivision.