**§ 353.3 Placement.** 1. In accordance with section 352.2 of this part, the court may place the respondent in his or her own home or in the custody of a suitable relative or other suitable private person or the commissioner of the local social services district or the office of children and family services pursuant to article nineteen-G of the executive law, subject to the orders of the court.

2. * Where the respondent is placed with the commissioner of the local social services district, the court may (i) 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, direct the commissioner to provide services necessary to meet the needs of the respondent, provided that such services are authorized or required to be made available pursuant to the approved plan to implement a juvenile justice close to home initiative then in effect and the commissioner shall notify the court and the attorney for the respondent of the authorized agency that such respondent was placed in; or (ii) in a social services district that is not operating an approved juvenile justice services close to home initiative pursuant to section four hundred four of the social services law, direct the commissioner to place him or her with an authorized agency or class of authorized agencies,; and if the court finds that the respondent placed with a social services district pursuant to this subdivision is a sexually exploited child as defined in subdivision one of section four hundred forty-seven-a of the social services law, the court may place such respondent in an available long-term safe house. Unless the dispositional order provides otherwise, the court so directing shall include one of the following alternatives to apply in the event that the commissioner is unable to so place the respondent:

* NB Effective until March 31, 2028

* Where the respondent is placed with the commissioner of the local social services district, the court may direct the commissioner to place him or her with an authorized agency or class of authorized agencies, including, if the court finds that the respondent is a sexually exploited child as defined in subdivision one of section four hundred forty-seven-a of the social services law, an available long-term safe house. Unless the dispositional order provides otherwise, the court so

directing shall include one of the following alternatives to apply in the event that the commissioner is unable to so place the respondent:

* NB Effective March 31, 2028

(a) the commissioner shall apply to the court for an order to stay, modify, set aside, or vacate such directive pursuant to the provisions of section 355.1 of this part; or

(b) the commissioner shall return the respondent to the family court for a new dispositional hearing and order.

* 2-a. Notwithstanding any inconsistent provision of law to the contrary, and pursuant to subdivision two of this section in a district operating an approved juvenile justice services close to home initiative pursuant to section four hundred four of the social services law:

(a) beginning on the effective date of the district's approved plan that only covers juvenile delinquents placed in non-secure settings, the court may only place the respondent:

(i) in the custody of the commissioner of the local social services district for placement in a non-secure level of care; or

(ii) in the custody of the commissioner of the office of children and family services for placement in a limited secure or secure level of care; and

(b) beginning on the effective date of the district's approved plan to implement programs for youth placed in limited secure settings, the court may only place the respondent:

(i) in the custody of the commissioner of the local social services district for placement in:

(A) a non-secure level of care;

(B) a limited secure level of care; or

(C) either a non-secure or limited secure level of care, as determined by such commissioner; or

(ii) in the custody of the commissioner of the office of children and family services for placement in a secure level of care.

* NB Repealed March 31, 2028

3. Where the respondent is placed with the office of children and family services, the court shall, unless it directs the office to place him or her with an authorized agency or class of authorized agencies, including if the court finds that the respondent is a sexually exploited

child as defined in subdivision one of section four hundred forty-seven-a of the social services law, an available long-term safe house pursuant to subdivision four of this section, authorize the office to do one of the following:

(a) place the respondent in a secure facility without a further hearing at any time or from time to time during the first sixty days of residency in office of children and family services facilities. Notwithstanding the discretion of the office to place the respondent in a secure facility at any time during the first sixty days of residency in a office of children and family services facility, the respondent may be placed in a non-secure facility. In the event that the office desires to transfer a respondent to a secure facility at any time after the first sixty days of residency in office facilities, a hearing shall be held pursuant to subdivision three of section five hundred four-a of the executive law; or

(b) place the respondent in a limited secure facility. The respondent may be transferred by the office to a secure facility after a hearing is held pursuant to section five hundred four-a of the executive law; provided, however, that during the first twenty days of residency in office facilities, the respondent shall not be transferred to a secure facility unless the respondent has committed an act or acts which are exceptionally dangerous to the respondent or to others; or

(c) place the respondent in a non-secure facility. No respondent placed pursuant to this paragraph may be transferred by the office of children and family services to a secure facility.

4. Where the respondent is placed with the office of children and family services, the court may direct the office to place the respondent with an authorized agency or class of authorized agencies, including, if the court finds that the respondent is a sexually exploited child as defined in subdivision one of section four hundred forty-seven-a of the social services law, an available long-term safe house, and in the event the office is unable to so place the respondent or, discontinues the placement with the authorized agency, the respondent shall be deemed to have been placed with the office pursuant to paragraph (b) or (c) of subdivision three of this section. In such cases, the office shall notify the court, presentment agency, respondent's attorney and parent

or other person responsible for the respondent's care, of the reason for discontinuing the placement with the authorized agency and the level and location of the youth's placement.

5. If the respondent has committed a felony the initial period of placement shall not exceed eighteen months. If the respondent has committed a misdemeanor such initial period of placement shall not exceed twelve months. If the respondent has been in detention pending disposition, the initial period of placement ordered under this section shall be credited with and diminished by the amount of time spent by the respondent in detention prior to the commencement of the placement unless the court finds that all or part of such credit would not serve the needs and best interests of the respondent or the need for protection of the community.

6. The court may at any time conduct a hearing in accordance with section 355.1 of this part concerning the need for continuing a placement.

7. The place in which or the person with whom the respondent has been placed under this section shall submit a report to the court, respondent's attorney of record, and presentment agency at the conclusion of the placement period, except as provided in paragraphs (a) and (b) of this subdivision. Such report shall include recommendations and such supporting data as is appropriate. The court may extend a placement pursuant to section 355.3 of this part.

(a) Where the respondent is placed pursuant to subdivision two or three of this section and where the agency is not seeking an extension of the placement pursuant to section 355.3 of this part, such report shall be submitted not later than thirty days prior to the conclusion of the placement.

(b) Where the respondent is placed pursuant to subdivision two or three of this section and where the agency is seeking an extension of the placement pursuant to section 355.3 of this part and a permanency hearing pursuant to section 355.5 of this part, such report shall be submitted not later than sixty days prior to the date on which the permanency hearing must be held and shall be annexed to the petition for

a permanency hearing and extension of placement.

(c) Where the respondent is placed pursuant to subdivision two or three of this section, such report shall contain a plan for the release, or conditional release (pursuant to section five hundred ten-a of the executive law), of the respondent to the custody of his or her parent or other person legally responsible, or to another permanency alternative as provided in paragraph (d) of subdivision seven of section 355.5 of this part. If the respondent is subject to article sixty-five of the education law or elects to participate in an educational program leading to a high school diploma, such plan shall include, but not be limited to, the steps that the agency with which the respondent is placed has taken and will be taking to facilitate the enrollment of the respondent in a school or educational program leading to a high school diploma following release, or, if such release occurs during the summer recess, upon the commencement of the next school term. If the respondent is not subject to article sixty-five of the education law and does not elect to participate in an educational program leading to a high school diploma, such plan shall include, but not be limited to, the steps that the agency with which the respondent is placed has taken and will be taking to assist the respondent to become gainfully employed or enrolled in a vocational program following release.

8. In its discretion, the court may recommend restitution or require services for the public good pursuant to section 353.6 of this part in conjunction with an order of placement.

* 9. If the court places a respondent with the office of children and family services, or with a social services district with an approved plan to implement a juvenile justice services close to home initiative under section four hundred four of the social services law, pursuant to this section after finding that such respondent committed a felony, the court may, in its discretion, further order that such respondent shall be confined in a residential facility for a minimum period set by the order, not to exceed six months.

* NB Effective until March 31, 2028

* 9. If the court places a respondent with the office of children and family services pursuant to this section after finding that such child committed a felony, the court may, in its discretion, further order that

such respondent shall be confined in a residential facility for a minimum period set by the order, not to exceed six months.

* NB Effective March 31, 2028

10. A placement pursuant to this section with the commissioner of the local social services district shall not be directed in any detention facility, but the court may direct detention pending transfer to a placement authorized and ordered under this section for no more than thirty days after the order of placement is made or in a city of one million or more, for no more than fifteen days after such order of placement is made. Such direction shall be subject to extension pursuant to subdivision three of section three hundred ninety-eight of the social services law.