§ 355.1. New hearing; staying, modifying or terminating an order. 1. Upon a showing of a substantial change of circumstances, the court may on its own motion or on motion of the respondent or his parent or person responsible for his care:

(a) grant a new fact-finding or dispositional hearing; or

(b) stay execution of, set aside, modify, terminate or vacate any order issued in the course of a proceeding under this article.

* 2. An order issued under section 353.3, may, upon a showing of a substantial change of circumstances, be set aside, modified, vacated or terminated upon motion of the commissioner of social services or the office of children and family services with whom the respondent has been placed.

(a)(i) For a social services district that only has an approved plan to implement programs for juvenile delinquents placed in non-secure settings as part of an approved juvenile justice services close to home initiative pursuant to section four hundred four of the social services law, beginning on the effective date of that plan, if the district determines that placement in a limited secure facility is appropriate and consistent with the need for protection of the community and the needs and best interests of the respondent placed into its care, the social services district shall file a petition to transfer the custody of the respondent to the office of children and family services, and shall provide a copy of such petition to such office, the respondent, the attorney for the respondent and the respondent's parent or legal guardian. The court shall render a decision whether the juvenile delinquent should be transferred to the office within seventy-two hours, excluding weekends and public holidays. The family court shall, after allowing the office of children and family services and the attorney for the respondent, after notice having been given, an opportunity to be heard, grant such a petition only if the court determines, and states in its written order, the reasons why a limited secure placement is necessary and consistent with the needs and best interests of the respondent and the need for protection of the community.

(ii) For a social services district with an approved plan or approved plans that cover juvenile delinquents placed in non-secure or in non-secure and in limited secure settings as part of an approved juvenile justice services close to home initiative pursuant to section

four hundred four of the social services law, beginning on the effective date of the plan, if the district determines that a secure level of placement is appropriate and consistent with the need for protection of the community and the needs and best interests of the respondent placed into its care, the social services district shall file a petition to transfer the custody of the respondent to the office of children and family services, and shall provide a copy of such petition to such office, the respondent, the attorney for the respondent and the respondent's parent or legal guardian. The court shall render a decision whether the youth should be transferred within seventy-two hours, excluding weekends and public holidays. The family court shall, after allowing the office of children and family services and the attorney for the respondent, after notice having been given, an opportunity to be heard, grant such a petition only if the court determines, and states in its written order, that the youth needs a secure level of placement because:

(A) the respondent has been shown to be exceptionally dangerous to himself or herself or to other persons. Exceptionally dangerous behavior may include, but is not limited to, one or more serious intentional assaults, sexual assaults or setting fires; or

(B) the respondent has demonstrated by a pattern of behavior that he or she needs a more structured setting and the social services district has considered the appropriateness and availability of a transfer to an alternative non-secure or limited secure facility. Such behavior may include, but is not limited to: disruptions in facility programs; continuously and maliciously destroying property; or, repeatedly committing or inciting other youth to commit assaultive or destructive acts.

(iii) The court may order that the respondent be housed in a local secure detention facility on an interim basis pending its final ruling on the petition filed pursuant to this paragraph.

(b) The following provisions shall apply if the office of children and family services files a petition with a family court in a social services district with an approved juvenile justice services close to home initiative pursuant to section four hundred four of the social services law to transfer, within the first ninety days that such plan is effective, to such district a respondent placed in the office's care

pursuant to either section 353.3 or 353. 5 of this part:

(i) Such a petition shall be provided to the respondent, the attorney for the respondent and the respondent's parent or legal guardian. If the district only has an approved plan that covers juvenile delinquents placed in non-secure settings, the family court shall grant such a petition, without a hearing, unless the attorney for the respondent, after notice, objects to the transfer on the basis that the respondent needs to be placed with the office or the family court determines that there is insufficient information in the petition to grant the transfer without a hearing. The family court shall grant the petition unless the court determines, and states in its written order, the reasons why placement with the office is necessary and consistent with the needs and best interests of the respondent and the need for protection of the community.

(ii) If the district has an approved plan or approved plans that cover juvenile delinquents placed in non-secure and in limited secure settings, for the first ninety days that the plan that covers juvenile delinquents in limited secure settings is effective, the family court shall grant such a petition, without a hearing, unless the attorney for the respondent, after notice, objects to the transfer on the basis that the respondent needs to be placed with the office or the family court determines that there is insufficient information in the petition to grant the transfer without a hearing. The family court shall grant the petition unless the court determines, and states in its written order, the reasons why placement with the office is necessary and consistent with the needs and best interests of the respondent and the need for protection of the community.

(c) Beginning ninety-one days after the effective date a social services district's plan to implement programs for juvenile justice services close to home initiative pursuant to section four hundred four of the social services law, if the office of children and family services files a petition to transfer to such district a respondent placed in the office's care pursuant to either section 353.3 or 353.5 of this part from a family court in such a social services district, the office shall provide a copy of the petition to the social services district, the attorney for the respondent and the presentment agency.

(i) If the district only has an approved plan that covers juvenile

delinquents placed in non-secure settings, the family court shall, after allowing the social services district, the attorney for the respondent and the presentment agency an opportunity to be heard, grant a petition filed pursuant to this subparagraph unless the court determines, and states in its written order, the reasons why a secure or limited secure placement is necessary and consistent with the needs and best interests of the respondent and the need for protection of the community.

(ii) If the district has an approved plan or approved plans that cover juvenile delinquents placed in non-secure and limited secure settings, beginning ninety-one days after the effective date of the plan that covers juvenile delinquents placed in limited secure settings, the family court, after allowing the social services district, the attorney for the respondent and the presentment agency an opportunity to be heard, shall grant a petition filed pursuant to this subparagraph, unless the court determines, and states in its written order, the reasons why a secure placement is necessary and consistent with the needs and best interests of the respondent and the need for protection of the community.

* NB Effective until March 31, 2028

* 2. An order issued under section 353.3, may, upon a showing of a substantial change of circumstances, be set aside, modified, vacated or terminated upon motion of the commissioner of social services or the division for youth with whom the respondent has been placed.

* NB Effective March 31, 2028

3. If the court issues a new order of disposition under this section the date such order expires shall not be later than the expiration date of the original order.