§ 720. Pre-dispositional placement. 1. No child to whom the provisions of this article may apply, shall be detained in any prison, jail, lockup, or other place used for adults or children convicted of crime or under arrest and charged with a crime.

2. The detention of a child in a secure detention or non-secure facility shall not be directed under any of the provisions of this article.

3. Pre-dispositional placement of a person alleged to be or adjudicated as a person in need of supervision shall be authorized only in a foster care program certified by the office of children and family services or a short-term safe house in accordance with section seven hundred thirty-nine of this article, or a certified or approved family boarding home pursuant to the social services law. The setting of the placement shall take into account:

(a) The proximity to the community in which the person alleged to be or adjudicated as a person in need of supervision lives with such person's parents or to which such person will be discharged; and

(b) The existing educational setting of such person and the proximity of such setting to the location of the placement setting.

4. (a) The court shall not order or direct pre-dispositional placement under this article, (i) unless the court determines and states in its written order; (1) that there is no substantial likelihood that the youth and his or her family will continue to benefit from diversion services, including but not limited to, any available respite services; and (2) that all available alternatives to detention have been exhausted; and (3) that pre-dispositional placement of the respondent is in the best interest of the respondent; and (4) that it would be contrary to the welfare of the respondent to continue in their own home; or (ii) if the sole basis for the petition is an allegation pursuant to paragraph (i) of subdivision (a) of section seven hundred twelve of this article.

(b) Where the youth is sixteen years of age or older, the court shall not order or direct pre-dispositional placement under this article, unless the court determines and states in its order that special

circumstances exist to warrant such placement.

(c) If in addition to the provisions of this section, 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 in accordance with section seven hundred thirty-nine of this article.