

F.C.A. §§ 413, 418, 440, 532,
536, 542, 545, 571; Art.5-B

Form 5-8
(Order of Filiation and
Support)
7/2003

At a term of the Family Court of the
State of New York held in and for the
County of _____,
at _____ New York,
on _____.

PRESENT Hon. _____
Judge/Support Magistrate

.....
In the Matter of a Paternity Proceeding

(Commissioner of Social Services, Assignee,
on behalf of _____, Assignor)

Docket No.

ORDER OF
FILIAION AND
SUPPORT

S.S.# (Assignor) _____ Petitioner,

-against-

Respondent

S.S.#
.....

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY RESULT IN
INCARCERATION FOR CRIMINAL NON-SUPPORT OR CONTEMPT;
SUSPENSION OF YOUR DRIVER'S LICENSE, STATE-ISSUED PROFESSIONAL,
TRADE, BUSINESS AND OCCUPATIONAL LICENSES AND RECREATIONAL
AND SPORTING LICENSES AND PERMITS; AND IMPOSITION OF REAL OR
PERSONAL PROPERTY LIENS.

IF THIS ORDER IS ENTERED BY A JUDGE, PURSUANT TO SECTION
1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE
TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN
COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE LAW GUARDIAN
UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF MAILING OF THE
ORDER TO APPELLANT BY THE CLERK OF COURT, WHICHEVER IS
EARLIEST.

IF THIS ORDER IS ENTERED BY A SUPPORT MAGISTRATE, SPECIFIC
WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT
WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR
BY PERSONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL,
WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

The above-named Petitioner having filed a petition, sworn to alleging that the above-named Petitioner Respondent is the father of a male female child born about to be born out of wedlock to on _____, _____, and that the mother and/or child is or is likely to become a public charge; and

The Respondent having appeared been brought before this Court to show cause why a declaration of paternity, order of support and other relief prayed for in the petition should not be made; and the Respondent having denied admitted the allegations of the petition; and

The matter having duly come on to be heard before this Court;

NOW, after examination and inquiry into the facts and circumstances of the case and after hearing the proofs and testimony offered in relation thereto, it is

ADJUDGED and DECLARED that the above-named Petitioner Respondent is the father of the child; and the Court finds that:

The basic child support obligation is \$ _____ weekly every two weeks monthly twice per month quarterly for support of the following child(ren):
NAME _____ DATE OF BIRTH _____ SOCIAL SECURITY # _____

The mother is the custodial non-custodial parent, whose pro rata share of the basic child support obligation is \$ _____ weekly every two weeks monthly twice per month quarterly.

The father is the custodial non-custodial parent, whose pro rata share of the basic child obligation is \$ _____ weekly every two weeks monthly twice per month quarterly.
;

And the Court finds further that:

The non-custodial parent's pro rata share of the basic child support obligation is neither unjust nor inappropriate;¹

OR

Upon consideration of the following factors specified in Family Court Act § 413(1)(f)[specify factors]:

the non-custodial parent's pro rata share of the basic child support obligation is unjust inappropriate for the following reasons [specify]:²

[Applicable in cases in which the parties stipulated to an order of child support]:

The parties have voluntarily stipulated to child support for the child(ren) [names]: payable by [specify]: _____ in the amount of \$ _____ weekly every two weeks monthly twice per month quarterly.

¹ This paragraph is to be used if the basic child support obligation is applied without deviation.

² This paragraph is to be used if the court's order deviates from the basic child support obligation, pursuant to F.C.A. § 413(1)(g).

This stipulation has been entered into the record and recites, in compliance with Section 413(1)(h) of the Family Court Act, that [check applicable box(es)]:

a. The parties have been advised of the provisions of Section 413(1) of the Family Court Act;

b. The unrepresented party, if any, has received a copy of the child support standards chart promulgated by the Commissioner of the N.Y.S. Office of Temporary and Disability Assistance pursuant to Section 111-i of the Social Services Law;

c. The basic child support obligation as defined in Family Court Act Section 413(1) presumptively results in the correct amount of child support to be awarded;

d. The basic child support obligation in this case is \$ _____ weekly every two weeks monthly twice per month quarterly; and

e. The parties' reason(s) for agreeing to child support in an amount different from the basic child support obligation (is) (are) [specify]:

The Court approves the parties' agreement to deviate from the basic child support obligation for the following reasons: [specify; see Family Court Act § 413(1)(f)]:

The name, address and telephone number of Respondent's current employer(s) are:
NAME ADDRESS TELEPHONE

NOW, therefore, it is [check applicable box(es)]:

ORDERED that the above-named Petitioner Respondent, upon notice of this order, pay or cause to be paid to _____ as Trustee IV-D cases: Support Collection Unit Non-IV-D cases: N.Y.S. Office of Temporary and Disability Assistance,⁴ the sum of \$ _____ weekly every two weeks monthly twice per month quarterly commencing [specify date]: _____, for the support and education of the child until the child reaches the age of twenty-one years; and it is further

ORDERED that the Petitioner Respondent pay or cause to be paid to _____ as Trustee IV-D cases: Support Collection Unit Non-IV-D cases: NYS Office of Temporary and Disability Assistance),⁵ the sum of \$ _____ which amount represents reimbursement for the needs of the child accruing from the date of the birth of the child to the date of the application for this order, which sum may be paid at the rate of \$ _____ weekly every two weeks monthly twice per month quarterly until the sum of \$ _____ is fully paid; and it is further

⁴Non-IV-D cases only: payments must be remitted to: N.Y.S. Office of Temporary and Disability Assistance, P.O. Box 15365, Albany, New York 12260

⁵Non-IV-D cases only: payments must be remitted to: N.Y.S. Office of Temporary and Disability Assistance, P.O. Box 15365, Albany, New York 12260

ORDERED that the Petitioner Respondent pay or cause to be paid to as Trustee, IV-D cases: Support Collection Unit, Non-IV-D cases: N.Y.S. Office of Temporary and Disability Assistance),⁶ the sum of \$ _____ as and for the necessary expenses incurred or to be incurred by or for the mother in connection with her pregnancy, confinement and recovery, which sum may be paid at the rate of \$ _____ weekly every two weeks monthly twice per month quarterly commencing on _____, _____, _____ until the sum of \$ _____ is fully paid; and it is further

[Non-IV-D cases only]: ORDERED that, pursuant to Family Court Act Section 440(1)(b)(2), this order shall be enforceable by immediate income deduction order issued in accordance with Section 5242 of the Civil Practice Law and Rules; and it is further

ORDERED that, for the following reason(s)

constituting good cause pursuant to Section 440(1)(b) of the Family Court Act, the IV-D cases: Support Collection Unit Non-IV-D cases: Court shall NOT issue an immediate income execution; however, in the event of default,⁷ this order shall be enforceable pursuant to Section 5241 or 5242 of the Civil Practice Law and Rules, or in any other manner provided by law; and it is further

[IV-D cases only]: ORDERED that the Respondent, custodial parent and any other individual parties immediately notify the Support Collection Unit of any changes in the following information: residential and mailing addresses, social security number, telephone number, driver's license number; and name, address and telephone numbers of the parties' employers and of any change in health insurance benefits, including any termination of benefits, change in the health insurance benefit carrier or premium, or extent and availability of existing or new benefits;

And the Court having determined that [check applicable box]:

The child(ren) are currently covered by the following health insurance plan [specify]: _____ which is maintained by [specify party]: _____

Health insurance coverage would be available to one of the parents or a legally-responsible relative [specify name]: _____ under the following health insurance plan [specify, if known]: _____ which provides the following health insurance benefits [specify extent and type of benefits, if known, including any medical, dental, optical, prescription drug and health care services or other health care benefits]: _____

Health insurance coverage is available to both of the parents as follows:

Name Health Insurance Plan Premium or Contribution Benefits

⁶Non-IV-D cases only: payments must be remitted to: N.Y.S. Office of Temporary and Disability Assistance, P.O. Box 15365, Albany, New York

⁷"Default", as defined in CPLR §5241, means the failure to remit three payments on the date due in the full amount directed in this order, or the accumulation of arrears, including amounts arising from retroactive support, that are equal to or greater than the amount directed to be paid for one month, whichever occurs first.

No legally-responsible relative has health insurance coverage available for the child(ren), but the child(ren) may be eligible for health insurance benefits under the New York "Child Health Plus" program or the New York State Medical Assistance Program,

IT IS THEREFORE ORDERED that [specify name(s) of legally-responsible relative(s)]:

continue to maintain health insurance coverage for the following eligible dependent(s) [specify]: _____ under the above-named existing plan for as long as it remains available;

enroll the following eligible dependent(s) [specify]: _____ immediately under the following health insurance plan [specify]: _____ and without regard to seasonal enrollment restrictions, effective as of [specify date]: _____

, and maintain such coverage as long as it remains available in accordance with [IV-D cases]: the Medical Execution, which shall be issued immediately by the Support Collection Unit, pursuant to CPLR 5241

the Medical Execution issued by this Court

[Non-IV-D cases]: the Qualified Medical Child Support Order.

SUCH COVERAGE SHALL INCLUDE ALL PLANS COVERING THE HEALTH, MEDICAL, DENTAL, OPTICAL AND PRESCRIPTION DRUG NEEDS OF THE DEPENDENTS NAMED ABOVE AND ANY OTHER HEALTH CARE SERVICES OR BENEFITS FOR WHICH THE LEGALLY-RESPONSIBLE RELATIVE IS ELIGIBLE FOR THE BENEFIT OF SUCH DEPENDENTS; PROVIDED, HOWEVER, THAT THE GROUP HEALTH PLAN IS NOT REQUIRED TO PROVIDE ANY TYPE OR FORM OF BENEFIT OR OPTION NOT OTHERWISE PROVIDED UNDER THE GROUP HEALTH PLAN EXCEPT TO THE EXTENT NECESSARY TO MEET THE REQUIREMENTS OF SECTION 1396(G-1) OF TITLE 42 OF THE UNITED STATES CODE. THE LEGALLY-RESPONSIBLE RELATIVE(S) SHALL ASSIGN ALL INSURANCE REIMBURSEMENT PAYMENTS FOR HEALTH CARE EXPENSES INCURRED FOR (HIS)(HER) ELIGIBLE DEPENDENT(S) TO THE PROVIDER OF SUCH SERVICES OR THE PARTY HAVING ACTUALLY INCURRED AND SATISFIED SUCH EXPENSES, AS APPROPRIATE;

OR

This Court having found that neither of the parties have health insurance coverage available to cover the child(ren), it is hereby

ORDERED that the custodial parent [specify name]: _____ shall immediately apply to enroll the eligible child(ren) in the "Child Health Plus" program (the NYS health insurance program for children) and the New York State Medical Assistance Program.

And the Court further finds that:

The mother is the custodial non-custodial parent, whose pro rata share of the cost or premiums to obtain or maintain such health insurance coverage is _____;

The father is the custodial non-custodial parent, whose pro rata share of the cost or premiums to obtain or maintain such health insurance coverage is _____;

And the Court further finds that [check applicable box]:

Each parent shall pay the cost of the premiums or family contribution in the same proportion as each of their incomes are to the combined parental income as follows [specify]: _____

Upon consideration of the following factors [specify]: _____

pro-rating the payment would be unjust or inappropriate for the following reasons [specify]: _____

Therefore, the payments shall be allocated as follows [specify]: _____

ORDERED that the legally responsible relative immediately notify the [check applicable box]: other party (non-IV-D cases) Support Collection Unit (IV-D cases) of any change in health insurance benefits, including any termination of benefits, change in the health insurance benefit carrier or premium, or extent and availability of existing or new benefits; and it is further

ORDERED that [specify name]: shall execute and deliver to [specify name]: any forms, notices, documents, or instruments to assure timely payment of any health insurance claims for said dependent(s); and it is further

ORDERED that upon a finding that the above-named legally-responsible relative(s) willfully failed to obtain health insurance benefits in violation of [check applicable box(es)]: this order the medical execution the qualified medical child support order, such relative(s) will be presumptively liable for all health care expenses incurred on behalf of the above-named defendant(s) from the first date such dependent(s) was were eligible to be enrolled to receive health insurance benefits after the issuance of such order or execution directing the acquisition of such coverage; and it is further

ORDERED that [specify]: the legally-responsible relative(s) herein, shall pay his her pro rata share of future reasonable health expenses of the child(ren) not covered by insurance by [check applicable box]: direct payments to the health care provider other [specify]: ; and it is further

ORDERED that, if health insurance benefits for the above-named child(ren) not available at the present time become available in the future to the legally-responsible relative(s), such relative(s) shall enroll the dependent(s) who are eligible for such benefits immediately and without regard to seasonal enrollment restrictions and shall maintain such benefits so long as they remain available; and it is further

[Check applicable box(es): ORDERED that parent herein, pay the sum of \$ as his her proportionate share of reasonable child care expenses, to be paid as follows: , the non-custodial

; and it is further

ORDERED that of \$ as educational expenses by direct payment to the educational provider other [specify]: , the non-custodial parent herein, pay the sum

; and it is further

- ORDERED that [specify party or parties; check applicable box(es)]: purchase and maintain life and/or accident insurance policy in the amount of [specify]: _____ and/or
- maintain the following existing life and/or accident insurance policy in the amount of [specify]: _____ and/or
- assign the following as beneficiary beneficiaries [specify]: _____ to the following existing life and/or accident insurance policy or policies [specify policy or policies and amount(s)]: _____.

In the case of life insurance, the following shall be designated as irrevocable beneficiaries [specify]: _____ during the following time period [specify]: _____.

In the case of accident insurance, the insured party shall be designated as irrevocable beneficiary during the following time period [specify]: _____.

The obligation to provide such insurance shall cease upon the termination of the duty of [specify party]: _____ to provide support for each child; and it is further

[IV-D Cases}: ORDERED that when the person or family to whom family assistance is being paid, no longer receives family assistance, support payments shall continue to be made to the Support Collection Unit, unless such person or family requests otherwise;) and it is further

ORDERED that Respondent shall have the following rights of visitation with respect to the child(ren)[specify]:⁸

[REQUIRED] IT IS FURTHER ORDERED that a copy of this order be provided promptly by [check applicable box]: Support Collection Unit ((IV-D cases:) Clerk of Court (non-IV-D cases) to the New York State Case Registry of Child Support Orders established pursuant to Section 111-b(4-a) of the Social Services Law; and it is further

ORDERED that [specify]:

NOTE: (1) THIS ORDER OF CHILD SUPPORT SHALL BE ADJUSTED BY THE APPLICATION OF A COST OF LIVING ADJUSTMENT AT THE DIRECTION OF THE SUPPORT COLLECTION UNIT NO EARLIER THAN TWENTY-FOUR MONTHS AFTER THIS ORDER IS ISSUED, LAST MODIFIED OR LAST ADJUSTED, UPON THE REQUEST OF ANY PARTY TO THE ORDER OR PURSUANT TO PARAGRAPH (2) BELOW. UPON APPLICATION OF A COST OF LIVING ADJUSTMENT AT THE DIRECTION OF THE SUPPORT COLLECTION UNIT, AN ADJUSTED ORDER SHALL BE SENT TO THE PARTIES WHO, IF THEY OBJECT TO THE COST OF LIVING ADJUSTMENT, SHALL HAVE THIRTY-FIVE (35) DAYS FROM THE DATE OF MAILING TO SUBMIT A WRITTEN OBJECTION TO THE COURT INDICATED ON SUCH ADJUSTED ORDER. UPON RECEIPT OF SUCH WRITTEN OBJECTION, THE COURT SHALL SCHEDULE A HEARING AT WHICH THE PARTIES MAY BE PRESENT TO OFFER EVIDENCE WHICH THE COURT WILL CONSIDER IN ADJUSTING THE CHILD SUPPORT ORDER IN ACCORDANCE WITH THE CHILD SUPPORT STANDARDS ACT. (2) A RECIPIENT OF FAMILY ASSISTANCE SHALL HAVE THE CHILD SUPPORT ORDER REVIEWED AND ADJUSTED AT THE DIRECTION OF THE SUPPORT COLLECTION UNIT NO EARLIER THAN TWENTY-FOUR MONTHS AFTER SUCH ORDER IS ISSUED, LAST MODIFIED OR LAST ADJUSTED WITHOUT FURTHER APPLICATION OF ANY PARTY. ALL PARTIES WILL RECEIVE NOTICE OF ADJUSTMENT FINDINGS. (3) WHERE ANY PARTY FAILS TO PROVIDE, AND UPDATE UPON ANY CHANGE, THE SUPPORT COLLECTION UNIT WITH A CURRENT ADDRESS, AS REQUIRED BY SECTION FOUR HUNDRED FORTY-THREE OF THE FAMILY COURT ACT, TO WHICH AN ADJUSTED ORDER CAN BE SENT, THE SUPPORT OBLIGATION AMOUNT CONTAINED THEREIN SHALL BECOME DUE AND OWING ON THE DATE THE

⁸ Judicial orders only.

FIRST
SUPPORT

PAYMENT IS DUE UNDER THE TERMS OF THE ORDER OF WHICH WAS REVIEWED AND ADJUSTED OCCURRING ON OR AFTER THE EFFECTIVE DATE OF THE ORDER, REGARDLESS OF WHETHER OR NOT THE PARTY HAS RECEIVED A COPY OF THE ADJUSTED ORDER.

ENTER

JUDGE OF THE FAMILY COURT/SUPPORT MAGISTRATE

DATED: _____, _____ .
CHECK APPLICABLE BOX:

- ORDER MAILED ON [SPECIFY DATE(S) AND TO WHOM MAILED]: _____
- ORDER RECEIVED IN COURT ON [SPECIFY DATE(S) AND TO WHOM GIVEN]: _____