

F.C.A §§651, 652, 654;
D.R.L §240

General Form 18
(Order on Petition for Custody or Visitation)
6/2016

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

.....

In the Matter of a Proceeding for
 Custody Visitation under
 Article 6 of the Family Court Act
 Section 240 of the Domestic Relations Law

Family File No.:
Docket No.

- FINAL ORDER
- TEMPORARY ORDER
ON PETITION FOR
- CUSTODY
- VISITATION

_____ Petitioner,
against -

_____ Respondent

.....
**NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY RESULT IN
INCARCERATION FOR CRIMINAL CONTEMPT.**

The Petitioner herein having filed a petition on [specify date]: _____, _____, pursuant to
 Article 6 of the Family Court Act Section 240 of the Domestic Relations Law, requesting an order of
 custody visitation of the following minor children [list each child as follows]:

Name of Child: _____ Date of Birth: _____

[Check applicable box(es)]:

And the Respondent having been served not been served with a copy of the petition, and
having been advised by the Court of the right to counsel, and
having appeared not appeared before this Court to answer the petition
and to show cause why it should not be granted; and
having consented not consented to the relief requested in the petition;

And the Court having searched the statewide registry of orders of protection, the sex offender
registry and the Family Court’s warrant and child protective records, and having notified the attorneys for the
parties and for the child [check if applicable]: and the following self-represented party or parties [specify]:
_____ of the results of these searches;

And the Court having considered and relied upon the following results of these searches in
making this decision [specify; if no results found, so indicate]:

[Required in cases involving Native-American children where petitioner and/or respondent

are **not** parents of the child; check box if applicable and attach Addendum to Order (General Form GF-32 - Findings of Fact and Conclusions of Law – *Indian Child Welfare Act*):

- And the following having been duly notified [check applicable box(es)]:
- parent/custodian tribe/nation [REQUIRED]
 - United States Secretary of the Interior [REQUIRED if tribal contact undetermined];

And the tribe/nation having: appeared and participated as a party;

- appeared and declined to assume jurisdiction;
- appeared and requested transfer of jurisdiction;¹
- not appeared;

And the required findings of fact and conclusions of law having been made pursuant to the *Indian Child Welfare Act* and having been attached in an **Addendum** to this Order;

[Applicable to TEMPORARY orders only where less than 90 days have elapsed since last record review]: And the Court, having dispensed with the search of the statewide registry of orders of protection, the sex offender registry and the Family Court's warrant and child protective records because these databases had been reviewed within the past 90 days;

[Applicable where a party had made an allegation of domestic violence or child abuse; findings must be stated on the record, included in a written decision OR included in this order; check applicable box]:

- And the Court having explained its findings on alleged domestic violence or child abuse on the record;
- And the Court having issued a written decision containing its findings on alleged domestic violence or child abuse;
- And the Court having found that the allegation that [specify party]:

had committed domestic violence or child abuse against [specify party or child(ren)]:

was was not proven by a preponderance of the evidence, and having considered the effect of such domestic violence or child abuse upon the best interests of the child(ren) and relevant facts and circumstances as follows in making this order [specify how findings, facts and circumstances were factored into this Order]:

[Applicable where hearing was heard jointly with hearing of Family Court Act Article 6 custody or guardianship petition, pursuant to Family Court Act §1055-b; CHECK BOX if applicable]:

- And the hearing having been heard jointly with the custody guardianship petition, Docket # [specify]:

[NOTE: Attach or insert the ADDENDUM TO FINDINGS OF FACT to this form where Petitioner or Respondent is a Respondent, Non-respondent parent, relative or other non-parent in a child protective, destitute child dispositional or permanency proceeding and where the hearing in the child custody matter was consolidated with the child protective or destitute child dispositional or permanency hearing, pursuant to F.C.A. §§1055-b, 1089-a or 1096]

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, this Court finds and determines that:

¹ If an oral application was made or a written petition was filed requesting transfer of the case to a tribal court, an order determining the request, General Form GF-20, must also be issued.

[For modification cases: delete if inapplicable]:² The following change of circumstances has occurred since the entry of the order judgment, dated [specify]: _____, of custody visitation [specify change in circumstances]: _____

And this Court further finds and determines that [specify]:

And it is therefore ORDERED that the best interests of the above-named child or children require [check applicable box(es)]: custody visitation to be as follows [specify]: _____

_____ ; and it is further

[Applicable to cases involving a party or parties in the military; check box(es) if applicable]:

ORDERED that, since Petitioner Respondent is _____ on active duty, deployed or temporarily assigned to military service and since such service affects such party's ability to act as a joint or primary custodian of the child(ren), the return of such party from such active duty shall constitute a substantial change of circumstances sufficient to entitle such party to a review of this Order for possible modification if in the child(ren)'s best interests, unless the parties and child(ren)'s attorney have otherwise stipulated or agreed; and it is further

ORDERED that during the period of active military service, deployment or temporary assignment, the party on such duty shall be permitted the following contact and visitation with the child [specify, including electronic communication and visitation during military leaves]: _____

_____ ; and it is further

[Applicable to cases where hearing was consolidated with child protective or destitute child dispositional or permanency hearing, pursuant to F.C.A. §§1055-b, 1089-a or 1096; check box if applicable]:

ORDERED that the following local department of social services [specify]: _____ and the following attorney for the child(ren)[specify]: _____ shall be notified and shall be made parties to any subsequent proceedings for modification, enforcement or termination of the Order; and it is further

[Applicable in cases involving Native-American child where petitioner and/or respondent are not parents of the child; check box(es) if applicable]:

- ORDERED** that the following should be notified of this proceeding [specify]: _____ the custodian of the child; tribe/nation; United States Secretary of the Interior
- ORDERED** that in light of the assumption of jurisdiction by the tribe/nation, this petition is **DISMISSED WITHOUT PREJUDICE**; (and it is further)

[Applicable to temporary orders]: **This Order shall expire** [check applicable box]: _____

² Form 40-a, the Order on Petition for Modification, may be used instead of this form in modification cases.

on the following date [specify]: upon issuance of a further or final order in this case.

AND IT IS FURTHER ORDERED that [specify]:

ENTER

Dated: _____
Judge of the Family Court

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, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

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]: _____

ADDENDUM TO FINDINGS OF FACT³

[Applicable to cases where Petitioner or Respondent is a Respondent or Non-respondent parent in a child protective or destitute child dispositional or permanency planning proceeding and where the hearing in the child custody matter was consolidated with the child protective or destitute child dispositional or permanency hearing, pursuant to F.C.A. §§1055-b, 1089-a or 1096; check applicable box(es)]:

Termination of the order placing or remanding the child(ren) pursuant to Article 10, 10-A or 10-C of the Family Court Act will will not not jeopardize the child(ren)'s safety, will provide the child with a safe and permanent home and is is not in the best interests of the child(ren).

[Applicable to cases where Petitioner or Respondent is a Respondent in a child protective or destitute child dispositional or permanency planning proceeding and where the hearing in the child custody matter was consolidated with the child protective or destitute child dispositional or permanency hearing, pursuant to F.C.A. §§1055-b, 1089-a or 1096; check applicable box(es)]:

The following non-parent of the child [specify non-parent]: _____ has objected to custody with Petitioner Respondent and has has not demonstrated extraordinary circumstances. If demonstrated, the following extraordinary circumstances support the non-parent's standing to seek custody of the child(ren) [specify]:

If the non-parent has demonstrated extraordinary circumstances, this Court finds that granting such custody is is not in the child's best interests.

[Applicable where child's other parent is NOT the Petitioner or Respondent in the custody

³ This addendum must be used where the Family Court Act Article 6 custody order is issued in conjunction with, or as a resolution of, a child protective, destitute child or permanency proceeding.

proceeding; check box if applicable]: The child's other parent has has not consented to custody with the Petitioner Respondent. If the child's other parent has failed to consent to such custody, this Court finds that granting such custody is is not in the child's best interests.

Applicable to cases where Petitioner or Respondent is a relative or other non-parent, who appeared in a child protective or destitute child dispositional or permanency proceeding and where the hearing in the child custody matter was consolidated with the child protective or destitute child dispositional or permanency hearing, pursuant to F.C.A. §§1055-b, 1089-a or 1096; check applicable box(es)]:

Termination of the order placing or remanding the child(ren) pursuant to Article 10, 10-A or 10-C of the Family Court Act will will not not jeopardize the child(ren)'s safety, will provide the child with a safe and permanent home, and is is not in the best interests of the child(ren).

The child(ren)'s birth mother has has not consented to custody of the child with the relative or other non-parent. If demonstrated, the following extraordinary circumstances support the relative's or other non-parent's standing to seek custody of the child(ren) [specify]:

If the relative or other non-parent has demonstrated extraordinary circumstances, this Court finds that granting such custody is is not in the child's best interests.

The child's legally-established birth father has has not consented to custody of the child with the relative or other non-parent. If demonstrated, the following extraordinary circumstances support the relative's or other non-parent's standing to seek custody of the child(ren) [specify]:

If the relative or other non-parent has demonstrated extraordinary circumstances, this Court finds that granting such custody is is not in the child's best interests.

The child has been living with the following foster parent(s)[specify]:
for a period in excess of one year, who has/have has/have not consented to custody of the child with the relative or other non-parent.

The local department of social services, the petitioner in the related child abuse or neglect destitute child permanency proceeding has has not consented to custody of the child with the relative or other non-parent.

The attorney for the child(ren) [specify]: _____ in the related child abuse or neglect destitute child permanency proceeding has has not consented to custody of the child with the relative or other non-parent.