

F.C.A §§1017, 1022  
S.S.L.§§393, 409-h

Form 10-1  
(Child Protective--Order Directing  
Temporary Removal of Child  
Before Filing of Petition)  
9/2021

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

**P R E S E N T:**

Hon.  
Judge

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In the Matter of

Docket No.

FAMILY FILE #:  
CIN #

A Child(ren) under the Age of  
Eighteen Years Alleged to be

Abused Neglected by

ORDER DIRECTING  
TEMPORARY  
REMOVAL OF CHILD  
(Before Filing of Petition)

Respondent(s)  
\_\_\_\_\_

**NOTICE: IF YOUR CHILD STAYS IN FOSTER CARE FOR 15 OF THE MOST RECENT 22 MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE YOUR PARENTAL RIGHTS AND MAY FILE BEFORE THE END OF THE 15-MONTH PERIOD. IF SEVERE OR REPEATED ABUSE IS PROVEN BY CLEAR AND CONVINCING EVIDENCE, THIS FINDING MAY CONSTITUTE THE BASIS TO TERMINATE YOUR PARENTAL RIGHTS. IF THE PETITION IS GRANTED, YOU MAY LOSE YOUR RIGHTS TO YOUR CHILD AND YOUR CHILD MAY BE ADOPTED WITHOUT YOUR CONSENT.**

**THE CHILD ABUSE OR NEGLECT PETITION MUST BE FILED BY [specify date/time]:  
THE REMOVAL HEARING [F.C.A. §1027] SHALL BE HELD ON [specify date/time]:  
THE PERMANENCY HEARING SHALL BE HELD ON [SPECIFY DATE/TIME]:<sup>1</sup>**

An application having been made to this Court by [check applicable box]:

\_\_\_\_\_  
<sup>1</sup> Specify a date certain not more than eight months from the date of removal. If the child has a sibling or half-sibling removed from the home, whose permanency hearing is scheduled before this Court, the date certain shall be the same as the date certain for the sibling's or half-sibling's permanency hearing, unless the sibling or half-sibling was removed on a juvenile delinquency or PINS petition or unless he or she has been freed for adoption. If the child is finally discharged from care on the scheduled date, the permanency hearing shall be cancelled.

a duly authorized child protective agency [specify]: \_\_\_\_\_ ;  
 or  a person authorized by the Court [specify]: \_\_\_\_\_  
 for an order directing the temporary removal of the above-named child(ren) from their residence  
 pursuant to Section 1022 of the Family Court Act ;

And the Respondent(s) [check applicable box(es)]:

- having been present at the hearing of this application;  
 and having  been represented  not been represented  waived representation by counsel;  
 having not been present at the hearing of this application, but [check box]:  
 having been given notice of this application by [specify]: \_\_\_\_\_  
 having not been given notice of this application;

[Check box if applicable]:  and the following Non-respondent parent was present and  was  
 was not represented by counsel;

**[Required in cases involving Native-American children; check if applicable]:**

- And the following having been duly notified [check applicable box(es)]:  
 parent/custodian  tribe/nation  United States Secretary of the Interior;  
 And the tribe/nation having:  appeared and participated as a party;  
 appeared and declined to assume jurisdiction;  
 appeared and requested transfer of jurisdiction;  
 not appeared;

**The Court finds and determines the following [Note: judicial findings must be made  
 pursuant to I and II and, below, if temporary removal is GRANTED]:**

**I. Criteria for Temporary Removal of Child(ren) [All four criteria, A, B, C and D, must be met]:**

- A. The  parent  person legally responsible for the child(ren) [check applicable boxes]:  
 is absent and cannot be located after reasonable effort to do so; or  
 was asked and refused to consent to temporary removal of the child(ren) and  
 was  was not informed of an intent to apply for an order of removal; or  
 consented to the temporary removal of the child(ren); and

B. The child(ren) appear(s) to so suffer from abuse or neglect by the  parent(s)  person(s)  
 legally responsible for the child(ren)'s care; and

C. Immediate removal of the child(ren) is necessary to avoid imminent danger to the child(ren)'s  
 life or health because [specify facts and reasons, including specific documents or evidence supporting  
 findings]: \_\_\_\_\_  
 \_\_\_\_\_ ; and

D. There is not enough time to file a petition and hold a preliminary hearing under Section 1027  
 of the Family Court Act.

**II. Required “Best Interests” and “Reasonable Efforts” Findings** [check applicable boxes and provide case-specific reasons in both A and B, below]:

A. Continuation in the child(ren)'s home  would  would not be contrary to the best interests of the child(ren) because [specify facts and reasons]:

This determination is based upon the following information [check applicable box(es)]:

- Report of Suspected Child Abuse or Neglect
- Case Record, dated [specify]:
- Service Plan, dated [specify]:
- The report of [specify]: , dated [specify]:
- Testimony of [specify]:
- Other [specify]:

B. Reasonable efforts, where appropriate, to prevent or eliminate the need for removal of the child(ren) from the home [check applicable box and state reasons as indicated]:

- were made as follows [specify]:
- were not made but the lack of efforts was appropriate [check all applicable boxes]:
  - because of a prior judicial finding that the Petitioner was not required to make reasonable efforts to reunify the child(ren) with the Respondent(s) [specify date of finding]:
  - because [specify other reason(s)]:
- were not made.

This determination is based upon the following information [check applicable box(es)]:

- Report of Suspected Child Abuse or Neglect
- Case Record, dated [specify]:
- Service Plan, dated [specify]:
- The report of [specify]: , dated [specify]:
- Testimony of [specify]:
- Other [specify]:

**III. Findings Regarding Alternatives to Removal to Foster Care:**

**A. Based upon the investigation conducted by the Commissioner of Social Services, including a review of records in accordance with section 1017 of the Family Court Act,**  
[Check applicable box(es):

- The following person [specify]: is a

non-respondent parent  legal custodian<sup>2</sup> or guardian  relative  suitable person with whom the child(ren) may appropriately reside.

**[Applicable to non-respondent parent]:** Such non-respondent parent:

wishes the child(ren) to be released to him/her during the pendency of this proceeding.  
 wishes to be granted a temporary order of custody, pursuant to a proceeding under Article 6 of the Family Court Act and has filed a petition, Docket # \_\_\_\_\_, which [check applicable box]:  is being heard jointly with this proceeding;  is scheduled to be heard on [specify date]:

**[Applicable to legal custodian or guardian]:** Such legal custodian or guardian:

wishes the child(ren) to be released to him/her during the pendency of this proceeding.

**[Applicable to relatives and other suitable persons]:** Such person:

seeks approval as a foster parent in order to provide care for the child(ren);  
 wishes to provide care and custody for the child(ren) without foster care subsidy during the pendency of an order pursuant to section 1055 of the Family Court Act.  
 wishes to be granted an order of temporary custody, pursuant to a proceeding under Article 6 of the Family Court Act and has filed a petition, Docket # \_\_\_\_\_, which [check applicable box]:  
 is being heard jointly with this proceeding;  is scheduled to be heard on [specify date]:  
 wishes to be appointed guardian pursuant to a proceeding under Article 6 of the Family Court Act and has filed a petition, Docket # \_\_\_\_\_, which [check applicable box]:  is being heard jointly with this proceeding;  is scheduled to be heard on [specify date]:

There is no non-respondent parent, legal custodian or guardian or relative or suitable person with whom the child(ren) may appropriately reside.

**B. Imminent risk to the child(ren)**  would  would not be eliminated by the issuance of a temporary order of protection or order of protection directing the removal of [specify]:

from the child(ren)'s residence.

**IV.  [REQUIRED if pre-petition placement in a Qualified Residential Treatment Program (QRTP) is requested; DELETE if inapplicable]:**

This Court, upon examination of the motion papers and supporting affidavit(s); the Qualified Individual's written assessment, if any, of the appropriateness of the requested placement; and any response thereto, including [specify]: \_\_\_\_\_; and [specify other information considered]: \_\_\_\_\_

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<sup>2</sup> "Legal custodian" refers to an individual with an order of custody issued prior to, and separate from, the child protective proceeding. A release to such an individual is distinguished from a child placed in the custody of an individual pursuant to an order of custody issued under Article 6 and section 1055-b of the Family Court Act. Such a custody order results in the termination of all orders under Article 10 of the Family Court Act, would not be deemed a "release" of the child and would thus not be the subject of a violation petition.

; and  upon hearing testimony in relation thereto  upon consent of all parties without a hearing, finds the following [check applicable box(es)]:

A. The needs of the child  can  cannot be met through placement in a foster family home pending resolution of this matter because [specify facts and reasons]:

B. Placement of the child in a Qualified Residential Treatment Program (QRTP)  does  does not provide the most effective and appropriate level of care for the child in the least restrictive environment pending resolution of this matter because: [specify facts and reasons]:

C. Placement in [specify name of QRTP]:  
 is  is not consistent with the short-term and long-term goals for the child, as specified in the child's permanency plan from a prior matter [specify] because [specify facts and reasons]:

D. Where the Qualified Individual has already determined that the placement of the above-named child in the Qualified Residential Treatment Program (QRTP) pending resolution of this matter is not appropriate, the Court nevertheless finds:

Circumstances exist that necessitate the placement of the above-named child in the Qualified Residential Treatment Program (QRTP) pending resolution of this matter as follows [specify facts and reasons]:

There is not an alternative setting available that can meet the above-named child's needs in a less restrictive environment pending resolution of this matter; **and**

Placement in the Qualified Residential Treatment Program (QRTP) pending resolution of this matter is in the child's best interests because [specify facts and reasons]:

**NOW, therefore, it is hereby**

**ORDERED that** [specify name of child(ren)]:  
shall be temporarily removed from the place where the child(ren)(is)(are) residing by any peace officer or agent of a duly authorized agency, society or institution and shall be brought to [specify]:  
; and it is further

**ORDERED that**, pending further proceedings, the child(ren) shall be placed in the temporary custody of [check applicable box]:

the Commissioner of Social Services of

County;

the Commissioner of Social Services of

County to reside

with [specify]:

the following relative(s) or other suitable person(s) [specify]:

**OR**

**ORDERED that**, pending further proceedings, the child(ren) shall be temporarily released to the following non-respondent parent(s) [specify]:

**OR**

**ORDERED that**, pending further proceedings, the child(ren) shall be temporarily released to the following legal custodian(s) or guardian(s) [specify]:

**OR**

**ORDERED that**, pursuant to a petition filed under Article 6 of the Family Court Act, Docket # [specify]: , the child(ren) (is) (are) placed in the temporary custody of the following non-respondent parent [specify]:

; (and it is further)

**ORDERED that**, Petitioner shall notify custodial parents of siblings and half-siblings of the child(ren) of these proceedings and of the next court date;

**ORDERED that** a petition under Article 10 of the Family Court Act shall be filed in this Court within three court days of the date of this Order unless the child(ren)( is) (are) sooner returned home;

**[Check applicable box(es)]:**

And it further appearing that emergency medical or surgical procedures are necessary to safeguard the life or health of said child, it is further

**ORDERED that**  Hospital [specify]:

Physician [specify]:

is hereby authorized to provide such emergency medical or surgical procedures for the said child(ren) as may be necessary to safeguard the life or health or said child(ren).

; (and it is further)

**ORDERED that** the Commissioner of Social Services shall  provide  arrange for the provision of following services or assistance to the

child(ren)  child(ren)'s family pursuant to section 1015-a or 1022(c) of the Family Court Act [specify]:

**[Applicable to temporary releases of child(ren) to Respondent(s), Non-respondent parents or legal custodians or guardians and temporary custody of child(ren) with relative(s) or suitable person(s); check applicable box(es)]:**

**IT IS FURTHER ORDERED** that, during the period of release or temporary custody, as

applicable, the individual to whom the child(ren) have been released or with whom the child(ren) have been placed into temporary custody under this Order may [check applicable box(es)]:

enroll the child(ren) in public school in the applicable school district and, upon verifying the Order and that the individual resides within the district, such district shall enroll the child(ren);

enroll the child(ren) in their employer-based health insurance plan with the same rights as child(ren) for whom the individual is the legal guardian or custodian; and

make decisions and provide any necessary consents regarding the child(ren)'s:

protection  education  care and control  physical custody  health and medical needs, provided that this Order does not limit any rights of the child(ren) to consent to medical care under applicable laws.

; (and it is further)

**ORDERED that** the Commissioner of Social Services shall conduct a diligent search for any non-respondent parents of the child(ren), inform them of the pendency of the proceeding and of the opportunity for seeking release or custody of the child(ren) and record the results of such investigation in the child's Uniform Case Record. Such search shall also include, but not be limited to, a person not recognized as a legal parent of the child but who has filed an instrument pursuant to section 4-1.2 of the Estates, Powers and Trusts Law acknowledging paternity with the putative father registry, has a pending paternity petition or has been identified as a parent by the other parent in a written, sworn statement. Such search shall include, but not be limited to, the following person(s) [specify, if known]:

; (and it is further)

**ORDERED that** the Commissioner of Social Services shall investigate whether there are any grandparents, other relatives or other suitable person(s) with whom the child(ren) may appropriately reside, including, but not limited to [specify]: ; shall inform them of the pendency of the proceeding, shall ascertain whether such person(s) wish to seek approval as foster parent(s) in order to provide care for the child(ren) or wish to provide care and custody for the child(ren) without foster care subsidy during the pendency of any order herein; and shall record the results of such investigation in the child's Uniform Case Record;

; (and it is further)

**ORDERED that**, within 24 hours of this order, the Commissioner of Social Services shall commence an investigation of the following relatives or other suitable persons as foster parents and thereafter approve such person(s) to be foster parents, if qualified, and, if not, to report such fact and the reasons therefor to the Court, all parties and counsels, including the attorney for the child, forthwith [specify]:

**ORDERED that** if the child absconds from the above-named custodial person or facility, written notice shall be given within 48 hours to the Clerk of Court by the custodial person or by an authorized representative of the facility, stating the name of the child, the docket number of this procedure, and the date on which the child ran away.

**[REQUIRED where pre-petition placement in a Qualified Residential Treatment Program is requested; delete if inapplicable]: After examination and inquiry into the facts and circumstances [check box if applicable]:  and after hearing the proof and testimony offered in relation thereto, it is therefore [Check applicable box(es)]:**

ORDERED, that the Petitioner's application for pre-petition placement of the child in the "Qualified Residential Treatment Program" is GRANTED, and placement of the child in [specify name of QRTP]: pending resolution of this matter is hereby approved.

**OR**

ORDERED, that the Petitioner's application for pre-petition placement of the child in the "Qualified Residential Treatment Program" is DENIED, and on or before [specify date]: the above-named child shall be [check applicable box and specify]:

- returned or released to the following parent [specify]:
- returned to or placed with the following legal guardian [specify]:

returned to or placed with the following suitable adult/relative [specify]:

returned to or placed in the following foster home [specify]:

returned to or placed in the following facility providing supports for pre-natal, post-partum and parenting youth: (specify):

returned to or placed in the following residential program providing supportive services for youth suspected of being or at risk of becoming sexually exploited, as defined in Social Services Law §447-a (1) [specify]:

returned or placed in an available supervised setting, as defined in Social Services Law §371, that is approved and supervised by an authorized agency or the local social services district and that provides a transitional experience for older youth in which such youth may live independently [specify]:

**OR**

On or before [specify date]: , Petitioner shall make such other arrangements for the above-named child's care and welfare that is in the best interests of the child and in the most effective and least restrictive setting pending resolution of this matter as the facts of the case require as follows [specify]:

**[Applicable Where Child is Native-American]:**

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 application is DENIED WITHOUT PREJUDICE.

; (and it is further)

ORDERED that if the child remains in foster care or is directly placed pursuant to Sections 1017 or 1055 of the Family Court Act, a permanency hearing shall be held on [specify date certain]:<sup>3</sup>

<sup>3</sup> Specify a date certain not more than eight months from the date of removal. If the child has a sibling or half-sibling removed from the home, whose permanency hearing is scheduled before this Court, the date certain shall be the same as the date certain for the sibling's or half-sibling's permanency hearing, unless the sibling or half-sibling was removed on a juvenile delinquency or PINS



ORDERED that

; (and it is further)

ENTER

\_\_\_\_\_  
Judge of the Family Court

Dated:           ,           .

**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.<sup>4</sup>**

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]: \_\_\_\_\_

\_\_\_\_\_  
petition or unless he or she has been freed for adoption. If the child is finally discharged from care on the scheduled date, the permanency hearing shall be cancelled.

<sup>4</sup> Note: A parent or other person legally responsible for a child may challenge an order of removal of the child or children by requesting a hearing before the Family Court. That hearing must be held within three court days of the request, unless good cause is shown. *See* F.C.A. §1028.