

F.C.A §1094, 1097;  
S.S.L. §§393, 409-h

Form 10-C-2  
(Destitute Child --  
Preliminary Order)  
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

\_\_\_\_\_  
In the Matter of

Docket No.  
PRELIMINARY ORDER  
CIN#  
(Destitute Child)

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

\_\_\_\_\_  
Parent(s) or Other Party/Parties

**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 THE PETITION IS GRANTED, YOU MAY LOSE YOUR RIGHTS TO YOUR CHILD AND YOUR CHILD MAY BE ADOPTED WITHOUT YOUR CONSENT.**

**THE NEXT COURT DATE IS [specify date/time]:  
THE PERMANENCY HEARING SHALL BE HELD ON [specify date/time]:1**

An application having been made pursuant to Family Court Act §1094 for an order [check applicable box(es)]:

temporarily placing the children into the care of the:  Commissioner of Social Services of [specify county];  New York City Administration for Children’s Services;  
 returning the child(ren) to the care of [specify]: \_\_\_\_\_, who (is)(are) the [specify]:  parent(s);  other caretaker(s) of the child(ren);

\_\_\_\_\_  
<sup>1</sup> Applicable only in cases in which child is temporarily placed into care. Specify a date certain not more than eight months from the date the social services official accepted care of the child. If the child has a sibling or half-sibling placed into foster care, 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 placed 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.

And a hearing having been held by this Court pursuant to Family Court Act § 1094; and the following person(s) having appeared [specify; check applicable boxes]:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Parent [specify]:           | <input type="checkbox"/> with counsel                     | <input type="checkbox"/> without counsel |
|  | <input type="checkbox"/> waived representation by counsel |  |
| <input type="checkbox"/> Parent [specify]:           | <input type="checkbox"/> with counsel                     | <input type="checkbox"/> without counsel |
|  | <input type="checkbox"/> waived representation by counsel |  |
| <input type="checkbox"/> Other caretaker [specify]:  | <input type="checkbox"/> with counsel                     | <input type="checkbox"/> without counsel |
|  | <input type="checkbox"/> waived representation by counsel |  |
| <input type="checkbox"/> Other caretaker [specify]:  | <input type="checkbox"/> with counsel                     | <input type="checkbox"/> without counsel |
|  | <input type="checkbox"/> waived representation by counsel |  |
| <input type="checkbox"/> Other [specify]:            |   |  |
| <input type="checkbox"/> Attorney for the child(ren) |   |  |
| <input type="checkbox"/> Petitioner                  |   |  |

**[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 that [Note: judicial findings must be made under I, and, if child is placed or continued in temporary care, also under II and III ]:**

**I. Criteria for Return or Continued Temporary Care of Child(ren) [check only ONE box]:**

**A. [Applicable only to request by petitioner for temporary care of child(ren)]:**

- The child(ren) should be returned home because no risk to the child(ren)'s life or health has been demonstrated.

**OR**

- Continued temporary care of the child(ren) is necessary to avoid risk to the child(ren)'s life or health.

**B. [Applicable only to request by parent(s) or caretaker(s) for return of child(ren)]:**

- The child(ren) should be returned home because no imminent risk to the child(ren)'s life or health has been demonstrated.

**OR**

- Continued temporary care of the child(ren) is necessary to avoid imminent risk to the child(ren)'s life or health.

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

A. Continuation of the child(ren) in, or return of the child(ren) to, 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)]:

- Petition
- 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 temporary care of the child(ren) away from the home, and, if the child(ren) were placed into temporary care prior to the date of this hearing, to return them home safely [check applicable box and state reasons as indicated]:

- were made as follows [specify]:
- were not made but the lack of efforts was appropriate, because [specify]:
- were not made.

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

- Petition
- 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:**

Based upon the investigation conducted by the Commissioner of Social Service,  
[Check applicable box(es)]:

- The following person [specify]:  
is a  parent  relative  suitable person

with whom the child(ren) may appropriately reside [specify]:

[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 at this time.
- may be a resource but not yet determined whether as foster parent or custodian.

**IV.  Required Findings Where Approval of Placement in a Qualified Residential Treatment Program (QRTP) is Requested Pending Final Disposition; DELETE if inapplicable:**

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

; 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 because [specify facts and reasons]:

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

D. [Applicable to initial QRTP placement]: Where the Qualified Individual has determined that the placement of the above-named child in the Qualified Residential Treatment Program (QRTP) is not appropriate, the Court nevertheless finds:

Circumstances exist that necessitate the continued placement of the above-named child in the Qualified Residential Treatment Program (QRTP) 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; **and**

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

There is no parent, relative or suitable person as yet identified with whom the child(ren) may appropriately reside pending final disposition of this matter.

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

ORDERED that the application for the return of the children is hereby

GRANTED, and [specify]: \_\_\_\_\_, a duly authorized agency is directed to return the above- named child(ren) to the parent(s) or other caretaker(s).

OR

DENIED; \_\_\_\_\_ (and it is further)

ORDERED that the child(ren)(is)(are) released to the custody of [specify]: \_\_\_\_\_, the child(ren)'s  parent(s)  other caretaker(s), as defined in Family Court Act 1092, such release to be under the supervision of [specify, if applicable]: \_\_\_\_\_; (and it is further)

ORDERED that, pending further proceedings, the child(ren) shall be placed in the temporary care 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]: \_\_\_\_\_; (and it is further)

ORDERED that:  Hospital [specify]: \_\_\_\_\_  Physician [specify]: \_\_\_\_\_ is hereby authorized to provide such emergency medical or surgical procedures for the child(ren) as may be necessary to safeguard the child(ren)'s life or health; (and it is further)

ORDERED that the child protective agency  provide  arrange for the provision of the following appropriate services or assistance to the child(ren) and to the child(ren)'s family authorized or required to be made available under the county comprehensive annual services program plan currently in effect, pursuant to Family Court Act §1094 [specify]:

(and it is further)

ORDERED that the Commissioner of Social Services shall conduct a diligent search for any parents of the child(ren) not named as parties, inform them of the pendency of the proceeding and of the opportunity for seeking custody of the child(ren) and record the results of such investigation in the child's Uniform Case Record;

(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 to the Court, all parties and counsels, including the attorney for the child(ren), forthwith [specify]:

(and it is further)

[Applicable where child is in care of Commissioner of Social Services]:

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;

(and it is further)

[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 petition is DISMISSED WITHOUT PREJUDICE.

**Required Order if Placement in "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 placement of the child in the "Qualified Residential Treatment Program" is GRANTED, and placement of the child in [specify name of QRTP]: is hereby approved.

**OR**

ORDERED, that the Petitioner's application for 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 as the facts of the case require as follows [specify]:

ORDERED that if the child remains in foster care pursuant to Section 1094 of the Family Court Act, a permanency hearing shall be held on [specify]:<sup>2</sup>

(and it is further)

ORDERED that

ENTER

Dated: \_\_\_\_\_,

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

<sup>2</sup> Applicable only in cases in which child is temporarily placed into care. Specify a date certain not more than eight months from the date the social services official accepted care of the child. If the child has a sibling or half-sibling in foster care, 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 placed 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.

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