

F.C.A. §355.3, 355.5;
S.S.L. §§393, 409-h

Form 3-38
(Juvenile
Delinquency -Petition
for Extension of Placement and
Permanency Hearing)
9/2021

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

In the Matter of

Docket No.

A Person Alleged to be a
Juvenile Delinquent,

Petition (Extension of Placement
And Permanency Hearing)

Respondent.

**DEADLINES: THIS PETITION MUST BE FILED BY [Specify date]:¹ AND THE
PERMANENCY HEARING MUST BE COMPLETED BY [Specify date]:**

TO THE FAMILY COURT:

The undersigned Petitioner respectfully alleges upon information and belief that:

1. Petitioner [Specify name and title]: _____, is the [specify]:

person

official acting on behalf of the [check applicable box]:

Commissioner of the N.Y.S. Office of Children and Family Services,

Commissioner of Social Services of [specify]: _____ County,

Commissioner of the N.Y.C. Administration for Children's Services

with whom the Respondent in the above-entitled proceeding has been placed pursuant to section 353.3 of the Family Court Act. Petitioner's residence principal office is located at [specify address]: _____, New York.

2. a. Under the Order of Disposition of this Court, dated [specify]: _____, the above-named Respondent, born _____, was adjudicated to be a juvenile delinquent

¹ The petition must be filed at least 60 days prior to the date by which the hearing must be completed. The date should conform to the deadline indicated on the prior Permanency Order, if any, or on the dispositional order. The petition must be served upon all parties to the action, including the attorney for the child, as well as any foster parent or relative providing care to the Respondent and any prospective adoptive parent(s). See F.C.A. §355.5.

within the meaning of Article 3 of the Family Court Act, and was placed with Petitioner for a period of months, terminating on . A copy of the order is annexed as Exhibit A.

b. [Delete if inapplicable]: Placement was last extended on [specify date]: , terminating on [specify date]:

- c. A permanency hearing is required at this time because [check applicable box(es)]:
 - The last permanency hearing was held regarding this placement on [specify date]:
 - No prior permanency hearing has been held.
 - A finding by the Court pursuant to F.C.A. §352.2(2)(c) that reasonable efforts to reunify the Respondent with his or her parent(s) or person(s) legally responsible are not necessary was made on [specify date]:

- 3. Respondent is now in the care and custody of Petitioner and is residing in a [specify]:²
 - non-secure facility or foster care program
 - limited secure facility
 - secure facility.

4. a. The following are the names and addresses of the parent(s) or other persons legally responsible for the care of the Respondent or with whom the Respondent resides:

<u>Name</u>	<u>Residence</u>	<u>Relationship</u>
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b. In addition to the Respondent’s parent(s) or other persons legally responsible for the Respondent’s care, the following individuals must be notified of this proceeding:

- Attorney for the child [specify]:
- Prospective adoptive parent(s)[specify]:
- Foster parent(s)[specify]:
- Relative(s)[specify]:
- Other [specify]:

5. Continued placement is in the Respondent’s best interests and it would not be in the Respondent’s best interests to return home because [specify reasons, including safety considerations, if any]:

This conclusion is supported by the following information [check applicable box(es)]:
 Probation Department report, dated [specify]:

² Family Court Act §355.5 requires a permanency hearing only regarding a juvenile who is placed in a non-secure facility, although all juveniles placed pursuant to Family Court Act §353.3 are subject to extensions of placement. See F.C.A. §355.3, 355.5.

- Mental health evaluation, dated [specify]:**
- Uniform Case Record, dated [specify]:**
- Risk Assessment Instrument**
- Summary of the Uniform Case Record, dated [specify]:**
- Service Plan, dated [specify]:**
- The report of [specify]:** , dated [specify]:
- Testimony of [specify]:**
- Other [specify]:**

6. a. The permanency plan for the Respondent is as follows [check applicable box(es) and indicate time frame(s)]:

- reunification with the parent(s) person(s) legally responsible for Respondent's care by [specify date]:
- placement for adoption upon filing of a petition to terminate parental rights by [specify date]:
- referral for legal guardianship by [specify name and date]:
- permanent placement with the following fit and willing relative [specify name]: by [specify date]:
- [Applicable ONLY to Respondents who are 16 years of age or older]:** permanent placement in the following alternative planned permanent living arrangement (APPLA) [specify]:

[REQUIRED in all APPLA plan cases]:³

(i) Documentation, made available to the Court, provides the following compelling reason(s) indicating that it would not be in the Respondent's best interests to return home, be referred for termination of parental rights and adoption, placed with a fit and willing relative, or placed with a legal guardian [specify compelling reason(s), indicating documentary sources of information, if any]:

(ii) APPLA is the best permanency plan for the Respondent because [specify]:

(iii). The following intensive, ongoing, and, as of the date of this petition, unsuccessful efforts were made to return the Respondent home or secure a placement for the Respondent with a fit and willing relative, including adult siblings, a legal guardian, or an adoptive parent, including

³ Although applicable to all youth in care, the requirement for documentation regarding subparagraphs (v) and (vi) to be submitted to the Court applies only to youth with APPLA goals.

through efforts that utilize search technology including social media to find biological family members of Respondent [specify]:

(iv) The following individual, with whom Respondent has a significant connection, is willing and should be designated as the Respondent's permanency resource [specify]:

(v). The "reasonable and prudent parent" standard of care has been applied to Respondent in the facility or home in which he or she resides as follows [specify]:

(vi). Respondent has been provided with regular, ongoing opportunities to engage in age or developmentally appropriate activities and has been consulted in an age-appropriate manner about the opportunities to participate in activities as follows [specify]:

b. **The permanency plan** [check applicable box]:

- has not changed since the dispositional hearing or last permanency hearing;
 has changed as follows [specify, indicating documentary sources of information, if any]:

c. **The permanency plan should be approved because** [specify reasons, indicating documentary sources of information, if any]:

7. a. Reasonable efforts, where appropriate, to return the Respondent home safely [check applicable box and state reasons as indicated]:

were made as follows [specify reasonable efforts, including specific documents or evidence supporting findings]:

were not made but the lack of efforts was appropriate [check all applicable boxes]:

- because of a prior judicial finding pursuant to F.C.A. §352.2(2)(c) that the Petitioner was not required to make reasonable efforts to reunify the Respondent with the parent(s) person(s) legally responsible [specify date of finding]:
- because of other reasons [specify]:

were not made.

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

- Probation Department report, dated [specify]:
- Mental health evaluation, dated [specify]:
- Uniform Case Record, dated [specify]:
- Risk Assessment Instrument
- Summary of the Uniform Case Record, dated [specify]:
- Service Plan, dated [specify]:
- The report of [specify]: , dated [specify]:
- Testimony of [specify]:
- Other [specify]:

b. [REQUIRED where the Respondent's permanency plan is adoption, guardianship or permanent living arrangement other than reunification]: Reasonable efforts to make and finalize the permanency planning goal of [specify]:

were made as follows [specify reasonable efforts, including specific documents or evidence supporting findings]:

were not made based upon the following facts and for the following reasons [specify]:

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

- Probation Department report, dated [specify]:
- Mental health evaluation, dated [specify]:
- Uniform Case Record, dated [specify]:
- Risk Assessment Instrument
- Summary of the Uniform Case Record, dated [specify]:
- Service Plan, dated [specify]:
- The report of [specify]: , dated [specify]:
- Testimony of [specify]:
- Other [specify]:

c. The following impediments exist, if any, to the fulfillment of the Respondent's permanency plan [specify, indicating documentary sources of information, if any]:

8. [Required where the Respondent is 14 years of age or older]:

The services needed, if any, to assist the Respondent to make the transition from foster care to independent living are [specify]:

a. These services are being provided as follows [specify]:

b. These services are not being provided for the following reasons [specify, indicating documentary sources of information, if any; if no services are needed, so indicate]:

9. [Required where the Respondent has been placed out-of-state]

The placement of Respondent at [specify]:

[check applicable box]: continues to be is not appropriate and in the Respondent's best interests because [specify, indicating documentary sources of information, if any]:

10. The current service plan, which is annexed to this petition, should be approved for the following reasons [specify, indicating documentary sources of information, if any; if any information in service plan is not up-to-date, so indicate]:

11. a. The visitation plan for the Respondent and the parent(s) other person(s) legally responsible is as follows [describe plan(s); if visitation is supervised, so state]:

b. The visitation plan for the Respondent and the Respondent's sibling(s) or half-sibling(s) is as follows [describe plan(s)]:

12. [REQUIRED where the Respondent has been in foster care for 15 out of the most recent 22 months]: A termination of parental rights petition:

was filed on [specify date]: in [specify court]:

The status of the case is as follows [specify]:

will be filed not later than [specify date]: in [specify court]:

will not be filed for the following reason(s) [check applicable box(es) and cite documentary sources of information, if any]:⁴

The Respondent is being cared for by a relative or relatives;

The authorized agency has documented the following compelling reason for not filing a termination of parental rights petition:

The Respondent was placed as a juvenile delinquent and the following facts and circumstances support a permanency plan of : return to the parent(s) or other person(s) legally responsible for the Respondent's care, or Alternative Planned Permanent Living Arrangement (APPLA; applicable only to youth 16 years or older): [specify facts and circumstances, citing documentary sources, if any]:

The Respondent has a permanency plan other than adoption;

The Respondent is 14 years of age or older and will not consent to adoption;

There are insufficient grounds for filing a termination petition;

The Respondent is the subject of a pending child abuse or neglect petition that has not yet reached disposition and the permanency plan is return to the parent(s) or other person(s) legally responsible for the Respondent's care.⁵

The authorized agency has not provided the following legally required services to the parent(s) of the Respondent that it deems necessary for the safe return of the Respondent [specify, citing documentary sources, if any]:

13. The Respondent has the following conditions and special needs [specify]:

<u>Area</u>	<u>Conditions/Special Needs</u>	<u>Services Needed</u>	<u>Services Provided</u>	<u>Last Evaluation</u>
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Medical

Developmental

Educational

⁴ See Social Services Law §§384-b(3)(1)(i), 384-b(3)(1)(ii).

⁵ This ground does not apply if the Respondent is already in the custody of the local commissioner of social services as a result of a proceeding other than the pending child abuse or neglect proceeding. See Social Services Law §§384-b(3)(1)(ii)(E).

Mental Health

Other [specify]:

14. The plan for the Respondent's release conditional release includes the following arrangements for the prompt enrollment of the Respondent in the following educational or vocational program [specify and attach a copy of the release plan pursuant to Family Court Act §353.3(7)]:

15. [REQUIRED for requests for approval of placement in Qualified Residential Treatment Program]:

a. The permanency plan for the Respondent is [specify]: _____
This plan has has not changed since the most recent dispositional or permanency hearing.

b. The needs of the Respondent require a higher level of care than can be provided by a foster or therapeutic foster home because [specify]:

c. The Respondent has been placed recommended for placement in [specify name]:
a qualified residential treatment program (QRTP).

d. **[Applicable to application for approval of new placement in a QRTP]:** The needs of the Respondent have been assessed by a Qualified Individual as defined in Social Services Law, Section 409-h (5) and a copy of the Qualified Individual's report has been submitted separately is submitted herewith will be submitted within five days of completion but not less than (10) days prior to the date of the first-scheduled hearing on this motion.

e. **[Applicable to request for approval of continued placement in QRTP]:**
(i) The following circumstances exist that necessitate the continued placement of the

Respondent in the QRTP [specify]:

(ii). There is no alternative setting available that can meet the Respondent's needs in a less restrictive environment because [specify]:

(iii). Continued placement serves the Respondent's needs and best interests or the need for protection of the community because [specify]:

(iv) Continued placement is consistent with the short- and long-term goals of the Respondent, as specified in the Respondent's permanency plan, because [specify]:

(v) It is anticipated that the Respondent will require the following treatment and services in the QRTP for the following period of time [specify services, treatment and expected duration]:

(vi) The following efforts have been made to prepare the Respondent to return home, or to be placed with a fit and willing relative, foster family home, legal guardian or adoptive parent [specify]:

16. The Respondent is is not a Native-American Respondent subject to the Indian Child Welfare Act of 1978 (25 U.S.C. §§ 1901-1963).

17. No previous application has been made to any court or judge for relief herein requested (except [specify]: _____).

WHEREFORE, Petitioner requests that this Court conduct a permanency hearing [delete if inapplicable]⁶ and enter an order of disposition as follows:⁷

A. Approving Petitioner’s implementation of the above permanency plan and release plan for the Respondent;

B. Extending the Respondent’s placement for a period of [specify period of not more than one year]:

C. Directing that the parent(s) person(s) legally responsible for Respondent’s care be notified of the planning conference(s) to be held, of (his)(her) right to attend such conference(s) and of (his)(her) right to attend with counsel or other person;

D. Directing that the parent(s) person(s) legally responsible for Respondent’s care be given a copy of this Court’s order and current service plan;

E. [DELETE if inapplicable]: Entering an Order approving placement of the Respondent in the following Qualified Residential Treatment Program:

F. Directing that, if the Respondent remains in foster care, the Petitioner must file a petition for a permanency hearing not later than [specify date 60 days prior to the date by which the permanency hearing must be completed]:⁸ and

G. Granting such other and further relief as it deems appropriate, including, but not limited to the following [specify]:

Date:

Commissioner
By _____
Name and Title

⁶ In most cases, a combined permanency/extension of placement hearing should be requested. However, where the Respondent is not placed in a facility requiring a permanency hearing or where a permanency hearing has been held within the past 12 months –e.g., where the Respondent had been placed for 18 months and a permanency hearing had been held at the 12 month juncture – an extension of placement hearing, without a permanency hearing, may be requested. Where the sole request is for a permanency hearing, without an extension of placement hearing, General Form GF-34 may be used instead of this form.

⁷ Paragraphs A, B and E are required.

⁸ See *Uniform Rules of the Family Court*, 22 N.Y.C.R.R. §205.17(b).

Individual Petitioner

Address and Telephone Number

VERIFICATION

(Agency)

STATE OF NEW YORK)
)ss.:
COUNTY OF NEW YORK)

The (s)he is the _____, being duly sworn, deposes and says:
of _____
, an agency authorized to originate the above-entitled proceeding, and is acquainted with the facts and circumstances therein; that (s)he has read the foregoing and knows the contents thereof; that the same is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matter (s)he believes it to be true.

Name

Title

Sworn to before me this _____
day of _____ .

(Deputy)(Clerk of Court)
(Notary Public)

VERIFICATION

(Individual)

STATE OF NEW YORK)
)**ss.:**
COUNTY OF NEW YORK)

, being duly sworn, deposes and says:

That (s)he is the _____ of _____, an agency authorized to originate the above-entitled proceeding, and is acquainted with the facts and circumstances therein; that (s)he has read the foregoing and knows the contents thereof; that the same is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matter (s)he believes it to be true.

Sworn to before me this _____ day of _____,

Petitioner

**(Deputy)(Clerk of Court)
(Notary Public)**