

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

Form 3-39
Juvenile Delinquency-
Extension of Placement and
Permanency Hearing Order)
9/2021

At a term for 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 Person Alleged to be a
Juvenile Delinquent,

Respondent.

Docket No.

EXTENSION OF
PLACEMENT AND
PERMANENCY HEARING
ORDER1

**DEADLINE: IF THE RESPONDENT REMAINS IN A NON-SECURE LEVEL OF CARE, A
PETITION FOR THE NEXT PERMANENCY HEARING MUST BE FILED NOT LATER
THAN [SPECIFY]:2 _____.**

The above-named Respondent having been adjudicated by this Court to be a juvenile delinquent within the meaning of Article 3 of the Family Court Act, and an Order of Disposition, dated [specify]: _____, having been issued placing Respondent with [check applicable box]:

- a suitable person the New York State Office of Children and Family Services
- [Non-NYC cases]: the Commissioner of Social Services of [specify]: _____ County,

¹ NOTE: Delete “Permanency Hearing” if this is solely an extension of placement order. Utilize General Form GF-35, instead of this form, if this is solely a permanency hearing order. Family Court Act §355.5(2) requires the permanency and extension of placement hearings to be combined. However, a permanency hearing may be required in advance of (and thus separately from) an extension of placement if a finding is made that reasonable efforts are not required (requiring a permanency hearing within 30 days) or if the Respondent was placed on a felony pursuant to F.C.A. §353.3 for 18 months (requiring a permanency hearing annually). Further, if the Respondent is placed in a facility not requiring a permanency hearing, an extension of placement hearing without a permanency hearing may be held. Although all juveniles placed pursuant to Family Court Act §§353.3 and 353.5 are subject to extensions of placement, F.C.A. §355.5 requires a permanency hearing only with respect to juveniles who, during the period of placement, are or may be placed in a non-secure level of care, that is, in facilities with capacities of 25 beds or fewer or are placed for re-placement with authorized agencies for foster or residential care.

² The petition must be filed at least 60 days prior to the date by which the hearing must be completed. *See Uniform Rules of the Family Court*, 22 N.Y.C.R.R. §205.17(b). Family Court Act §355.5 requires a permanency hearing regarding juveniles who are placed in non-secure facilities, 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.

[NYC cases]: the Commissioner of the New York City Administration for Children's Services

And the petition of [specify]: _____, for an extension of placement and permanency hearing, sworn to on [specify date]: _____,

having been filed in this Court [check applicable box]:

- at least 60 days prior to the expiration of the period of placement;
 less than 60 days prior to the expiration of the period of placement, and good cause having [check applicable box] been not been found for the delay;
 in the case of a placement of 12 months or more, at least 60 days prior to the date the permanency hearing must be held;
 in the case of a placement of 12 months or more, less than 60 days prior to the date the permanency hearing must be held, and good cause having [check applicable box] been not been found for the delay;

And notice having been duly given to the following person(s), who appeared as follows: [specify; check applicable boxes]:

- Respondent with counsel without counsel
 Parent(s)[specify]: _____
 Other person(s) legally responsible for Respondent's care [specify]: _____
 Prospective adoptive parent(s)[specify]: _____
 Foster parent(s) caring for Respondent [specify]: _____
 Relative(s) caring for Respondent [specify]: _____
 Authorized Agency caring for Respondent [specify]: _____
 Parents of siblings of the respondent [specify]: 3
 Other [specify]: _____

And the matter having duly come on to be heard, and the above-named persons appearing having been given an opportunity to be heard,

And the position and information provided by the [check applicable box(es)]:

- NYS Office of Children and Family Services
 [Non-NYC cases]: the Commissioner of Social Services of [specify]: _____ County,
 [NYC cases]: the Commissioner of the New York City Administration for Children's Services having been considered by the Court;

The Court, after having made an examination and inquiry into the facts and circumstances of the case and into the surroundings, conditions, and capacities of the persons involved, finds and determines the following [Note: judicial findings must be made pursuant to both I and II, below]:

I. Required "Best Interests" and "Reasonable Efforts" Findings [check applicable boxes and provide case-specific reasons in both A and B below]:

³ Federal law [Public Law 113-183; 42 U.S.C. §675], requires permanency hearing notification to parents who have legal custody of the respondent's sibling or siblings. Siblings include those who would be siblings under NYS law, but for termination of parental rights or other disruption of parental rights, including death of a parent.

A. “Best Interests” Finding: Return of the Respondent to the home would would not be contrary to the best interests of the Respondent because [specify facts and reasons]:

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

- The Permanency Petition, dated [specify]:
- 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. “Reasonable Efforts” Findings:

1. Reasonable efforts, where appropriate, to return the Respondent 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 [check all applicable boxes]:
 - because of a prior judicial finding pursuant to Family Court Act §352.2(2)(c) that the authorized agency was not required to make reasonable efforts to reunify the Respondent with the parent(s) person(s) legally responsible for Respondent’s care [specify date of finding]:
 - because of other reasons [specify]:
- were not made.

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

- The Permanency Petition, dated [specify]:
- 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]:

2. [Required in cases in which the Respondent's permanency plan is adoption, guardianship or permanent living arrangement other than reunification]: Reasonable efforts to make and finalize the permanency plan of [specify]:

were made as follows [specify]:

were not made based upon the following facts and for the following reasons [specify; if lack of efforts was reasonable, so indicate]:

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

- The Permanency Petition, dated [specify]:
- 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]:

II. Required Findings Regarding Program Services, Transitional Services and Out-of-State Placements:

A. Required for Respondents 16 years of age or older with Alternative Planned Permanent Living Arrangement (APPLA) Goals [check applicable box(es)]:

1. Evidence has has not been provided to the Court that a "reasonable and prudent parent" standard of care has been applied to Respondent in the facility or home in which he or she resides;

2. Evidence has has not been provided to the Court that 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 such activities;

3. Evidence has has not been provided to the Court, indicating compelling reason(s) 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. These reasons are as follows [specify compelling reason(s)]:

4. Evidence has has not been provided to the Court, indicating that 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 through efforts that utilize search technology including social media to find biological family members of Respondent.

5. The Court inquired directly of the Respondent regarding the permanency plan.

6. The following individual, with whom Respondent has a significant connection, is willing and is designated to be the Respondent's permanency resource [specify]:

7. The Court has determined that APPLA with a significant connection to an adult willing to be a permanency resource for the Respondent is the best permanency plan for the Respondent because [specify]:

B. [Required where Respondent is 14 years of age or older]: The services, if any, needed to assist the Respondent to make the transition from foster care to independent living are [specify]:

C. [Required where the Respondent is placed outside New York State]: Placement outside New York State is is not appropriate and in the Respondent's best interests;

III. Required Findings Where Placement in Qualified Residential Treatment Program is Requested:

Required Findings if Placement in "Qualified Residential Treatment Program" is Requested [DELETE if inapplicable]:

This Court, upon examination of the motion papers and supporting affidavit(s); [initial placements only]: the Qualified Individual's written assessment of the appropriateness of the requested placement; 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 Respondent can cannot be met through placement in a foster family home because [specify facts and reasons]:

B. Placement of the Respondent in a Qualified Residential Treatment Program (QRTP)

does does not provide the most effective and appropriate level of care for the Respondent 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 Respondent, as specified in the Respondent's permanency plan because [specify facts and reasons]:

D. The following efforts, if any, 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]:

E. [Applicable to initial placements in QRTP; delete if inapplicable]: Where the Qualified Individual has determined that the placement of the above-named Respondent 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 Respondent 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 Respondent's needs in a less restrictive environment; **and**

Continued placement serves the above-named Respondent's needs and best interests or the need for protection of the community because [specify facts and reasons]:

NOW, after examination and inquiry into the facts and circumstances and after hearing the proof and testimony, it is therefore

A. Temporary Order Extending Placement

ORDERED that, probable cause having been found for continuing the placement temporarily pending the hearing and that such temporary order is necessary, Respondent's placement is extended until [specify date not to exceed 30 days]:⁴

⁴ The permanency hearing (required for Respondents placed in non-secure facilities, as defined by F.C.A. §355.5(1), residential care or foster homes) must be held and the "best interests" and "reasonable efforts" findings above must be made on a timely basis, even if the placement is extended only temporarily. One or more temporary extension of up to 30 days may be granted only upon satisfactory proof of probable cause and the necessity of each order. F.C.A. §355.3(5) provides that "[t]he court may order additional temporary extensions, not to exceed a total of 15 days, if the court is

B. Extension of Placement: Disposition of Petition (Required)

ORDERED that the petition is **GRANTED** and the placement is extended to the following date [specify]: _____, subject to further orders of this Court.

ORDERED that the petition is **DISMISSED** and the Respondent is discharged from the custody of [specify]: _____ on [specify date no later than the date of expiration of the placement period]: _____

C. Permanency Plan (Required where permanency hearing was held under F.C.A. §355.5)⁵

ORDERED that Petitioner's permanency plan for the above-named Respondent [check applicable box]:

is approved is modified,

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 permanent planned living arrangement [specify]: _____

D. Reasonable Efforts (Applicable where permanency hearing held under F.C.A. §355.5)⁶

[Optional in cases in which the Respondent's goal is reunification with the parent or guardian; check box if applicable]:

ORDERED that following reasonable efforts shall be made to make and finalize the Respondent's goal of reunification [specify]: _____

_____ ; (and it is further)

[Optional in cases in which the Respondent's goal is adoption, guardianship or permanent living arrangement other than reunification; check box if applicable]:

unable to conclude the hearing within the 30 day temporary extension period. In no event shall the aggregate number of days in extensions granted or ordered under this subdivision total more than 45 days. The petition shall be dismissed if a decision is not rendered within the period of placement or any temporary extension thereof."

⁵ See Note 1.

⁶ See Note 1.

ORDERED that following reasonable efforts shall be made to make and finalize the Respondent’s goal of [specify goal and describe efforts]:

; (and it is further)

E. Service Plan (REQUIRED where permanency hearing held under F.C.A. §355.5)7

ORDERED that the service plan submitted by the Petitioner [check applicable box]:
 is appropriate should be modified as follows [specify]:

;

and shall be given by Petitioner, along with a copy of this Order; to the [check applicable box]:

parent(s) person(s) legally responsible for the Respondent’s care,

; (and it is further)

F. Transitional Services [check applicable box(es)]:

[Applicable in cases where the Respondent is 14 years of age or older]:

ORDERED that the Petitioner is directed to provide the following services determined above to be needed to assist the Respondent to make the transition from foster care to independent living [specify]:

; (and it is further)

[REQUIRED where release plan has been submitted pursuant to Family Court Act §353.3(7)]:

ORDERED that the plan for the Respondent’s release conditional release is [check applicable box]: approved modified as follows [specify]: 8

; (and it is further)

ORDERED that Petitioner shall take the following steps to implement the plan for the Respondent’s release conditional release [specify]:

[Required where placement is extended and release plan has not yet been submitted]:

ORDERED that 30 days prior to the conclusion of the placement or, if an extension of placement will be sought, 60 days prior to the date by which a permanency hearing must be concluded, Petitioner shall submit a report to the Court, attorney for the child or attorney of record and

⁷ See Note 1.

⁸ See Family Court Act §353.3(7).

Services Law §447-a, so indicate if Respondent needs the services afforded by an available long-term safe house]:

[Required where Respondent is placed with the New York City Administration for Children's Services; optional for all other placement cases; check box if applicable]:

The placement agency is directed to provide prior notice to the Respondent, attorney for the Respondent and Respondent's parent or guardian in the event that Respondent is transferred

from one facility to another, unless an immediate change of placement is necessary, in which case the notice shall be transmitted on the next business day.

I. [REQUIRED Where Placement in Qualified Residential Treatment Program is Requested]:

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 Respondent in the "Qualified Residential Treatment Program" is GRANTED, and placement of the Respondent in [specify name of QRTP]: is hereby approved.

OR

ORDERED, that the Petitioner's application for placement of the Respondent 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 Respondent and in the most effective and least restrictive setting as the facts of the case require as follows [specify]:

J. Deadline for Filing Next Permanency Petition (Required if permanency hearing held pursuant to F.C.A. §355.5)⁹

ORDERED that if the Respondent remains in foster care, Petitioner shall file a petition for the next permanency hearing **NO LATER THAN** [specify date not less than 60 days before deadline for completion of hearing]:
and the permanency hearing shall be completed by [specify date]:

ORDERED, that _____ and it is further
ENTERED

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.**

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]:

⁹ See Note 1.