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Soc. Serv. Law §§ 358-a, 384-a, 384-c, 393, 409-h

Form 358-a-5
(Order of Disposition - Petition for
Approval of an Instrument)
9/2021

At a term of the Family Court of then 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 the Application for
Approval of an Instrument concerning

Docket No.

CIN #

ORDER OF DISPOSITION
PETITION FOR APPROVAL
OF AN INSTRUMENT

Pursuant to Section 358-a of the Social Services Law

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 PERMANENCY HEARING SHALL BE HELD ON [SPECIFY DATE/TIME]:¹

The Petition of an authorized official of the Department of Social Services for [specify]:
County, New York City Administration for Children’s Services, dated [specify]:
, having been filed with the Court requesting approval of an instrument transferring
custody and care of the child to the agency;

¹Specify 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 permanency hearing shall be cancelled.

And the following person(s) having been duly served with notice of this proceeding and having been given an opportunity to be heard [check applicable boxes]:

- Parent [specify]:
having appeared with counsel without counsel waived counsel not appeared;
- Parent [specify]::
having appeared with counsel without counsel waived counsel not appeared;
- Guardian(s) [specify]:
Having appeared: yes no with counsel without counsel
- Petitioner
Appeared: yes no
- Prospective adoptive parent(s) [specify]:
Appeared: yes no
- Relatives providing care for the child [specify]:
Appeared: yes no
- Other [specify]:
Appeared: yes no with counsel without counsel;

And the parent(s) [specify]: guardian(s)[specify]:
having by written instrument consented to the jurisdiction of this Court and waived service of the petition and notice of proceeding, and the Court having dispensed with such service [check box(es) if applicable];

And an attorney having been appointed and having appeared to represent the child;

[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;

[Note: Required; judicial findings must be made pursuant to I and, if petition is GRANTED, II, III and, if applicable, IV]:

And the matter having duly come on for a hearing before this Court, the Court, after hearing the proof and testimony offered in relation to the case, finds and determines that:

I. Criteria for Approval of Placement Instrument [Check applicable box(es) in A, B and C, below]:

- A. The parent(s) [specify]: guardian(s) [specify]:
 did did not execute such instrument knowingly and voluntarily; and
- B. The parent(s) [specify]: guardian(s) [specify]:

would would not be able to make adequate provision for the care, maintenance and supervision of the child in the home; and

C. The requirements of Social Services Law §384-a have been satisfied (except [specify]).

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

A. Continuation of the child in, or return of the child to, the child's home would be contrary to the best interests of the child because [specify facts and reasons]:

This determination is supported by the following information [check applicable box(es)]:

- Case Record, dated [specify]:
- Service Plan, dated [specify]:
- The report of [specify]: , dated [specify]:
- Other [specify]:

B. Reasonable efforts, where appropriate, to prevent or eliminate the need for placement, and, if the child was removed prior to the date of the hearing, to return the child 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 that the authorized agency was not required to make reasonable efforts to reunify the child with the parent(s)
 guardian(s) [specify date of finding]:
 - because [specify other reasons]:
- were not made.

This determination is supported by the following information [check applicable box(es)]:

- Case Record, dated [specify]:
- Service Plan, dated [specify]:
- The report of [specify]: , dated [specify]:
- Other [specify]:

C . [REQUIRED in cases in which the child’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.

This determination is supported by the following information [check applicable box(es)]:

- Case Record, dated [specify]:

- Service Plan, dated [specify]:
- The report of [specify]: , dated [specify]:
- Other [specify]:

III. Findings Regarding Relatives and Siblings [Required; check applicable boxes in A and B, below]:

A. Relatives: Based upon the investigation conducted by the Commissioner of Social Services, [Check applicable box(es):

The following person is a suitable person related to the child with whom such child may appropriately reside [specify]:

Such person: seeks approval as a foster parent in order to provide care for the child;

wishes to provide care and custody for the child without foster care subsidy at this time.

may be a resource but not yet determined whether as foster parent or custodian.

There is no suitable person related to the child with whom the child may appropriately reside.

B. Siblings: Based upon the investigation conducted by the Commissioner of Social Services, [Check applicable box(es):

The following sibling(s) or half-sibling(s) are in the care and custody of the Commissioner of Social Services of [specify]: County [specify]:

Placement of the child with the following sibling(s) or half-sibling(s) [specify]: would be appropriate and in the children's best interests [specify]:

Placement of the child with the following sibling(s) or half-sibling(s) [specify]: would not be in the child's best interests based upon the following facts and for the following reasons [specify]:

The following is the plan for visiting and communication with the sibling(s) or half-sibling(s)[specify]:

Visiting and communication with the sibling(s) or half-sibling(s) would be contrary to the children's best interests based upon the following facts and for the following reasons [specify]:[specify]:

The child has no siblings or half-siblings.

The child has the following siblings or half-siblings [specify]:

who are in the custody of [specify]:

IV. Transitional Services [Required where child is 14 years of age and older]:

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

V. 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); 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 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) 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. 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**

Placement or continued placement in the Qualified Residential Treatment Program (QRTP) is in the child's best interests because [specify facts and reasons]:

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

A. Disposition of Petition [Required; check applicable box]

ORDERED that the petition is GRANTED and the instrument dated [specify]:
and executed by [specify]: _____ is approved and the
custody and care of the child is hereby transferred to the Petitioner ;

OR

ORDERED that the petition is DISMISSED and the child is discharged. and must be returned
forthwith to [specify]: _____ ; (and it is further)

B. Reasonable Efforts [Applicable where petition granted]

[Applicable where the child's permanency plan is reunification with the parent or guardian]:

ORDERED that following reasonable efforts shall be made to make and finalize the child's
permanency plan of reunification [specify]:

ORDERED that [specify]: _____, a social services official a duly
authorized agency, undertake diligent efforts to encourage and strengthen the parental relationship,
including, but not limited to, the following [specify]:

_____ ; (and it is further)

**[Applicable where the child's permanency plan is adoption, guardianship or permanent living
arrangement other than reunification]:**

ORDERED that following reasonable efforts shall be made to make and finalize the child's
permanency plan of [specify permanency plan and describe efforts]:

_____ ; (and it is further)

C. Relatives, Suitable Persons, Siblings and Half-siblings [Applicable if petition granted]:

ORDERED that the Commissioner of Social Services investigate [specify]:
as a relative or other suitable person with whom the child may reside; (and it is further)

ORDERED that the Commissioner of Social Services investigate placement of the child with
the following siblings or half-siblings [specify]: _____ ; (and it is further)

**D. Visitation with Parents, Guardians, Grandparents, Siblings and Half-siblings [Required
where petition granted]²**

² The visiting plan with the parents or guardians must be described in the order pursuant to Social Services Law §358-a(3)(e). If the Petitioner or attorney for the child oppose incorporation of a visiting order regarding a non-custodial parent or grandparent, this order must contain a determination of that application. See Social Services Law §358-a(10)(b). Further, this order may contain a direction to the Petitioner regarding the findings rendered with respect to the child's placement, visiting and communication with siblings or half-siblings. See Social Services Law §358-a(11).

ORDERED that Petitioner shall provide the parent(s) (guardian(s) with visitation with the child as follows [describe visitation plan]:
;(and it is further)

[Applicable where Petitioner or the attorney for the child opposed incorporation of a visitation order regarding non-custodial parents or grandparents into the placement instrument]:

ORDERED that the application of Petitioner attorney for the child for the visitation order regarding the following non-custodial parents or grandparents [specify]: not to be incorporated into the placement instrument is hereby granted denied; and the visitation order is incorporated not incorporated modified as follows [specify]:
;(and it is further)

ORDERED that Petitioner shall provide the following sibling(s) or half-sibling(s) of the child with visitation with the child as follows [describe visitation plan]:
;(and it is further)

E. Notice of Planning Conferences, Service of Order and Service Plan [Required in all cases in which the petition is granted]

ORDERED that the parent(s) (guardian(s) be notified of the planning conference or conferences to be held with respect to the child, of the parent(s)' or guardian(s)' right to attend such conference(s) and of the right to be accompanied at such conference(s) by counsel or other person; or (and it is further)

ORDERED that the Petitioner shall serve a copy of this Order and service plan personally by certified mail upon the parent(s) (guardian(s) who executed the aforesaid instrument. Such service shall be made within [specify]: days from the date of this order, and shall be accompanied by a notice of the terms and conditions, if any, under which the custody and care of the child may be returned to the parent(s) or guardian(s); (and it is further)

F. Request for Return of Child [Required in all cases in which the petition is granted]

ORDERED that the child shall be returned to the parent(s) (guardian(s) in accordance with the terms and conditions of the placement instrument without further Court order; (and it is further)

G. Native-American Children [Check box 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)

H. REQUIRED if 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]:

I. Date Certain for Permanency Hearing [Required in all cases where petition is granted]

ORDERED that if the child(ren) remain(s) in foster care or in placement with a relative or other suitable person, the next permanency hearing shall be held on [specify date/time]:3

³ See Footnote 1.

Petitioner shall transmit notice of the hearing and a permanency report no later than 14 days in advance of the above date certain to the parents, other parties, attorneys, the attorney for the child and any pre-adoptive parent or relative providing care to the child(ren) and shall transmit notice of the hearing to former foster parent(s) who have had care of the child(ren) in excess of 12 months.

And it is further ORDERED that

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]: _____