

FCA §§ 467, 549, 651, 652,654; DRL §§75-1, 240¹

Petition-Custody, Visitation)
3/2018

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

.....
In The Matter of a Proceeding for

Custody Visitation under Article 4 5 6
of the Family Court Act or Section 240
of the Domestic Relations Law

Petitioner
Relationship to child:

Family File No.
Docket No.
PETITION
 CUSTODY VISITATION

-against-

Respondent
Relationship to child:

.....
TO THE FAMILY COURT:

The Petitioner respectfully alleges upon information and belief that:

1. The name, gender, current address and date of birth of each child who is the subject of this proceeding are as follows [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

<u>Name</u>	<u>Gender</u>	<u>Date of Birth</u>	<u>Current Address</u>	<u>Name of Person with Whom Child Resides</u>
-------------	---------------	----------------------	------------------------	---

2. a. Petitioner, _____, [check applicable box]: resides is located at [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

b. Petitioner is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]:

3. a. Respondent, _____, [check applicable box]: resides is located at [specify address or indicate if ordered to be confidential, pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

¹ Note: If a custody or visitation proceeding is pending in, or an order of custody or visitation has been issued by, a court outside of the State of New York, including a Native-American tribunal, the custody/visitation petition for proceedings under the *Uniform Child Custody Jurisdiction and Enforcement Act*, Form UCCJEA-1 should be utilized instead of this form. If a prior order of custody or visitation had been entered by a Court of this State, the petition for modification or enforcement, General Forms 40 or 41, should be used instead of this form.

b. Respondent is [specify relationship to child; if foster parent, agency, institution or other relationship, so state]:

4. **[Check box if applicable, or if not, SKIP to ¶5]** (Upon information and belief) For any child listed in ¶(1) above who resided at the current address and/or with the current person for two years or less, specify where and with whom the child lived during the two years prior to that time [specify address or indicate if ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

<u>Name of Child</u>	<u>Child's Address</u>	<u>Duration</u> (from/to)	<u>Name of Person</u> <u>With Whom Child</u> <u>Resided</u>	<u>Current Address</u> <u>of the Person With</u> <u>Whom Child Resided</u>
----------------------	------------------------	------------------------------	---	--

5. **[Applicable when Petitioner and/or Respondent is on active military duty or has recently returned from active military service; check box(es) if applicable, or if not, SKIP to Paragraph 6]:**

a. Petitioner is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:²

Petitioner returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:

b. Respondent is on active duty, deployed or temporarily assigned to military service as follows [specify type of service, military branch or National Guard unit and how return from duty is likely to affect custody or visitation, if at all]:³

Respondent returned from active duty, deployment or temporary assignment to military service as follows [specify date of return, type of service, military branch or National Guard unit, anticipated dates and location of duty and how duty is likely to affect custody or visitation, if at all]:

6. **[Check box(es) if applicable; or if not, SKIP to Paragraph 7]:** An order was issued by Court, _____ County, State of _____, referring the issue of custody visitation to the Family Court of the State of New York in and for the County of [specify]:

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

a. The father of the child(ren) who (is)(are) the subject(s) of this proceeding is [specify]:

The father was married to the child(ren)'s mother at the time of the conception or birth.

An order of filiation was made on [specify date and court and attach true copy]:

² Inapplicable if Petitioner is based at a permanent duty station or has had a permanent reassignment of station.

³ Inapplicable if Respondent is based at a permanent duty station or has had a permanent reassignment of station.

An acknowledgment of paternity was signed on [specify date]:
by [specify who signed and attach a true copy]:

The father is deceased.

b. The father of the child(ren) who (is)(are) the subject(s) of this proceeding has not been legally established.

c. A paternity agreement or compromise, pursuant to former Family Court Act §516,⁴ was approved by the Family Court of _____ County on _____, _____, concerning [name parties to agreement or compromise _____ and child(ren)]:
A true copy of the agreement or compromise is attached to this petition.

8. **[Applicable to cases in which either parent is not a party; check box if applicable, or if not, SKIP to Paragraph 9]:** The name and address of a parent or parents who are not parties to this proceeding are: [specify; indicate if deceased or if address(es) ordered to be kept confidential pursuant to Family Court Act §154-b(2) or Domestic Relations Law §254]:

9. **[Check box if applicable, or if not, SKIP to Paragraph 10]:** Petitioner has participated as a party witness other capacity [specify]: _____ in other litigation concerning the custody of the same children in New York State Other jurisdiction [specify].⁵
If so, specify type of case, type of participation, court, location and status of case.

10. a. A custody or visitation proceeding concerning the same child(ren) is is not pending in New York State. [If pending, give court docket number and status of case]:

b. A custody or visitation proceeding concerning the same child(ren) is is not pending in a jurisdiction outside New York State. [If pending, specify where, court docket number and status of case]:

11. **[Check box if applicable, or if not, SKIP to Paragraph 12]:** The custody or visitation of the child(ren) has been agreed upon in the following custody, separation or guardianship agreement, dated [specify, and attach copy]:

12. **[Check box(es) if applicable, or if not, SKIP to Paragraph 13]:**

a. Petitioner Respondent obtained custody of the child(ren) on [specify date]:
_____, as follows:

b. Petitioner Respondent obtained visitation with the child(ren) on [specify date]:
_____, as follows:

⁴ The agreement or compromise must have been signed prior to the repeal of FCA §516 on May 19, 2009.

⁵ If litigation occurred in Native-American tribunal, so indicate.

13. It would be in the best interests of the child(ren) for Petitioner to have custody visitation for the following reasons [specify]:

14. [Check box(es) if applicable, or if not, SKIP to Paragraph 15]:

a. An Order of Protection or Temporary Order of Protection was issued [check applicable box(es): against Respondent against me in the following criminal, matrimonial and/or Family Court proceeding(s) [specify the court, docket or index number, date of order, next court date and status of case, if available]:

The Order of Protection Temporary Order of Protection expired or will expire on [specify date]:

b. Petitioner requests a Temporary Order of Protection pursuant to Family Court Act §655 because [specify]:

15. [Applicable where one or more parties are not parents of the child(ren); if not, SKIP to Paragraph 16]: The subject child(ren) are are not Native-American child(ren) who may be subject to the *Indian Child Welfare Act* (25 U.S.C. §§ 1901-1963). If so, the following have been notified [check applicable box(es)]:

parent/custodian [specify name and give notification date]:

tribe/nation [specify name and give notification date]:

United States Secretary of the Interior [give notification date]:

16. [INSERT ADDENDUM where a child abuse, child neglect or destitute child petition and/or a permanency hearing report has been filed regarding the child(ren) and in which Petitioner is a Respondent parent, Non-respondent parent, relative or other non-parent; if not, SKIP to Paragraph 17].

17. No previous application has been made in any court, including a Native-American tribunal, or to any judge for the relief herein requested, (except:

WHEREFORE, Petitioner requests an order awarding custody visitation of the child(ren) to the Petitioner and for such other and further relief as the Court may determine.

Dated:

Petitioner

Print or type name

Signature of Attorney, if any

Attorney's Name (Print or Type)

Attorney's Address and Telephone Number

VERIFICATION

STATE OF NEW YORK)

)ss:

COUNTY OF)

_____ being duly sworn, says that (s)he is the Petitioner in the above-named proceeding and that the foregoing petition is true to (his)(her) own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters (s)he believes it to be true.

Petitioner

Sworn to before me this
day of ,

(Deputy) Clerk of the Court
Notary Public

ADDENDUM (Paragraph 17)

[REQUIRED where a child abuse, child neglect or destitute child petition and/or a permanency hearing report has been filed regarding the child(ren) and where Petitioner is a Respondent parent, Non-respondent parent, relative or other non-parent; check applicable box(es)]:

a. A child protective petition, Docket # [specify]: _____, was filed in Family Court, [specify county]: _____ on [specify date]: _____ alleging that [specify names of respondents on that petition]: _____

neglected or abused the above-named child(ren). The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1055-b, so indicate and give next court date]: _____

b. A destitute child petition, Docket # [specify]: _____, was filed in Family Court, [specify county]: _____ on [specify date]: _____. The petition resulted in [specify whether finding was made and, if so, the disposition; if the disposition has been adjourned pending a consolidated hearing with this petition, pursuant to F.C.A. §1096, so indicate and give next court date]: _____

c. A permanency report, Docket # [specify]: _____, pursuant to Article 10-A of the Family Court Act, was filed in Family Court, [specify county]: _____ on [specify date]: _____ indicating a permanency plan of custody of the child(ren) with Petitioner in this proceeding. The permanency hearing was adjourned to [specify date]: _____ pending a consolidated hearing with this petition, pursuant to F.C.A. §1089-a.

d. Termination of the order placing or remanding the child(ren) pursuant to Article 10, 10-A or 10-C of the Family Court Act will not jeopardize the child(ren)'s safety, will provide the child with a safe and permanent home and is in the best interests of the child(ren) for the following reasons [specify]: _____

[Applicable to cases where Petitioner is a Respondent or a Non-respondent parent in a child protective or destitute child dispositional or permanency planning proceeding and where the hearing in the child custody matter was consolidated with the child protective or destitute child dispositional or permanency hearing, pursuant to F.C.A. §§1055-b, 1089-a or 1096; check box(es) if applicable]:

e. The child's other parent has has not consented to custody with the Petitioner.

f. The following non-parent [specify]: _____ of the child has has not objected to custody with Petitioner. If objecting to custody, the non-parent has not demonstrated extraordinary circumstances.

[Applicable to cases where Petitioner is a relative or other non-parent, who appeared in a child protective or destitute child dispositional or permanency proceeding and where the hearing in the child custody matter was consolidated with the child protective or destitute child dispositional or permanency hearing, pursuant to F.C.A. §§1055-b, 1089-a or 1096; check box(es) if applicable]:

g. The child's birth mother has has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

h. The child's legally-established birth father has has not consented to the award of custody to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek custody of the child(ren) [specify]:

i. The child has been living with the following foster parent(s)[specify]:
since [specify date]: The foster parent(s) has/have has/have not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

j. The local department of social services [specify]: _____ in the related child abuse or neglect destitute child permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether they have consented, so state]:

k. The attorney for the child(ren) [specify]: _____ in the related child abuse or neglect destitute child permanency proceeding has has not consented to the award of custody to the Petitioner. [If unaware whether he or she has consented, so state]: