

F.C.A. §§ 631, 633, 1089
Soc. Serv. Law §384-b

Form TPR-2a
(Findings of Fact, Conclusions of Law and
Order of Disposition- Suspended Judgment
- Permanent Neglect)
(8/2010)

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 a Commitment of Guardianship
and Custody pursuant to §384-b of the
Social Services Law of

Docket No.

CIN #

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER OF DISPOSITION -
SUSPENDED JUDGMENT
(Permanent Neglect)

A Child under the Age of Eighteen Years,
Alleged to be a Permanently Neglected Child

THE SUSPENDED JUDGMENT REPORT MUST BE SUBMITTED BY [specify date]:¹
THE COURT DATE TO REVIEW THE SUSPENDED JUDGMENT IS [specify date/time]:²

[FOSTER CARE ONLY]: THE NEXT PERMANENCY HEARING SHALL BE HELD ON
[specify date/time]:³

A Petition under Article 6, Part 1 of the Family Court Act and Section 384-b of the Social Services
Law having been filed alleging that the above-named child is a permanently-neglected child; and
summonses having been issued and duly served upon and notice having been duly given to all proper

¹ Specify a date not later than 60 days prior to the expiration of the order of suspended judgment.

² Specify a date not later than 30 days prior to the expiration of the order of suspended judgment.

³ Respondent is NOT a party to the permanency hearing if his or her rights have been terminated. If the
disposition is a suspended judgment but the child remains in foster care, the permanency hearing must be scheduled for a
date certain within 30 days of the earlier of this Court's announcement of its decision or issuance of this Order. The next
permanency hearing must be scheduled for a date certain not more than six months after the completion of the
permanency hearing. A separate permanency order, Form PH-5, must be issued even if the permanency hearing is
combined with the dispositional hearing in this proceeding.

parties hereto, and

Respondent #1 [specify]: mother father other [specify]:
 having appeared with counsel without counsel waived counsel not appeared;

And Respondent #1 [specify]: having:

voluntarily, intelligently and knowingly admitted in open court that (s)he committed the following act(s) [specify]:

denied the allegations of the petition and the matter having duly come on for a fact-finding hearing before this Court ;

failed to appear and the matter having duly come on for a fact- finding hearing by inquest before this Court ;

Respondent #2 [specify, if any]: mother father other [specify]:
 having appeared with counsel without counsel waived counsel not appeared;

And Respondent #2 [specify, if any]: having:

voluntarily, intelligently and knowingly admitted in open court that (s)he committed the following act(s) [specify]:

denied the allegations of the petition and the matter having duly come on for a fact-finding hearing before this Court ;

failed to appear and the matter having duly come on for a fact- finding hearing by inquest before this Court;

And the child having been represented by an attorney;

[Required where only one parent or non-parent is Respondent; check if applicable]:

The legal status of the other parent(s) [specify]: is/are as follows [specify if rights retained, terminated, surrendered or if parent is deceased or whereabouts unknown]:

[Required in cases involving Native-American children; check if applicable]:

- And the following having been duly notified [check applicable box(es)]:
 - parent/custodian⁴ 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 matter having duly come on for a fact-finding hearing , the Court, after [check box]

hearing the proofs and testimony offered in relation to the case

accepting the admission by Respondent(s) [specify]:

finds that the allegations that [specify Respondent(s)]: (has) (have)
 permanently neglected the child are supported by clear and convincing proof, and
 makes the following findings of fact by clear and convincing evidence and comes to the following

⁴ Notice to parent is not required if parental rights were terminated.

conclusions of law:

FINDINGS OF FACT

[insert]

CONCLUSIONS OF LAW

[insert]

And the matter having duly come on for a dispositional hearing, and

Respondent [specify]:

having appeared with counsel without counsel waived counsel not appeared;

Respondent [specify]:

having appeared with counsel without counsel waived counsel not appeared;

before this Court for the dispositional hearing; and

And the Court having determined that the following individual(s) would be entitled to notice of an adoption pursuant to Domestic Relations Law §111-a [specify name(s)]:

And the Court having determined that such person(s) had had not been provided with notice of the proceeding and that such person(s) had had not appeared;

[Required if Child is 14 or older]: The above-named child, who was born on [specify]:

has consented to adoption by [specify]:

has withheld consent to adoption by [specify]: for the following reasons
[specify, including information furnished by the attorney for the child and/or the child]:

The Court, having made examination and inquiry into the facts and circumstances of the case and into the surroundings, conditions and capacities of the persons involved in this proceeding, finds that the best interests of the child require the disposition made below:

NOW, therefore, it is

ORDERED AND ADJUDGED that [specify child]:

is a permanently neglected child as defined in subdivision seven of section 384-b of the Social Services Law; and it is further

ORDERED that judgment is suspended upon the following terms and conditions until the following date [specify date up to one year after the Order]:⁵ ; and it is further

ORDERED that the Respondent is advised that: FAILURE TO OBEY THIS ORDER MAY LEAD TO ITS REVOCATION AND TO THE ISSUANCE OF AN ORDER TERMINATING PARENTAL RIGHTS AND COMMITTING GUARDIANSHIP AND CUSTODY OF THE CHILD TO AN AUTHORIZED AGENCY FOR THE PURPOSE OF ADOPTION;

AND IT IS FURTHER ORDERED that, as indicated on the face of this Order, not less than 60 days prior to the expiration date above, Petitioner shall file a report with the Court and all parties, including Respondent and his or her attorney, the attorney for the child and any intervenors, regarding

⁵ See 22 N.Y.C.R.R. §205.50, attached as Appendix A.

Respondent's compliance with the terms of the suspended judgment;

AND IT IS FURTHER ORDERED that, as indicated on the face of this Order, not less than 30 days prior to the expiration date above, the Court shall review the report at a scheduled court date.

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

Required Date Certain for Permanency Hearing [Required only in cases in which the child is in foster care]:

ORDERED that if the child remains in the custody and guardianship of the authorized agency or foster parent, the next permanency hearing shall be held on [specify date certain within 30 days of the earlier of the Court's announcement of its decision or issuance of this Order]:⁶

And it is further ORDERED that Petitioner shall transmit notice of the hearing and a permanency report no later than [check applicable box]: 14 days in advance of the above date certain other date [specify]: _____ to all parties (not including any Respondent whose parental rights have been terminated), attorneys, the attorney for the child and any pre-adoptive parent or relative providing care to the child(ren) and, unless dispensed with by the Court, 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

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.

Dated: _____, .

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]: _____

APPENDIX A
UNIFORM RULES OF THE FAMILY COURT [22 NYCRR §205.50]

⁶ If guardianship and custody of the child have not been committed, but the child remains in the care and custody of an authorized agency during the period in which judgment has been suspended, the permanency hearing shall be held as previously scheduled six months from completion of the last permanency hearing.

**§ 205.50 Terms and Conditions of Order in Accordance With Section 633
of the Family Court Act or Section 384-b(8)(c) of the Social Services Law**

(a) An order suspending judgment entered pursuant to section 631 of the Family Court Act or section 384-b(8)(c) of the Social Services Law shall be related to the adjudicated acts or omissions of respondent and shall contain at least one of the following terms and conditions requiring respondent to:

- (1) sustain communication of a substantial nature with the child by letter or telephone at stated intervals;
- (2) maintain consistent contact with the child, including visits or outings at stated intervals;
- (3) participate with the authorized agency in developing and effectuating a plan for the future of the child;
- (4) cooperate with the authorized agency's court-approved plan for encouraging and strengthening the parental relationship;
- (5) contribute toward the cost of maintaining the child if possessed of sufficient means or able to earn such means;
- (6) seek to obtain and provide proper housing for the child;
- (7) cooperate in seeking to obtain and in accepting medical or psychiatric diagnosis or treatment, alcoholism or drug abuse treatment, employment or family counseling or child guidance, and permit information to be obtained by the court from any person or agency from whom the respondent is receiving or was directed to receive such services; and
- (8) satisfy such other reasonable terms and conditions as the court shall determine to be necessary or appropriate to ameliorate the acts or omissions which gave rise to the filing of the petition.

(b) The order shall set forth the duration, terms and conditions of the suspended judgment and shall contain a date certain for review of respondent's compliance not less than 30 days in advance of the expiration of the suspended judgment. The suspended judgment may last for up to one year and may, if exceptional circumstances warrant, be extended by the Court for one additional period of up to one year. A copy of the order, along with a current service plan, shall be furnished to the respondent. The order shall contain a written statement informing the respondent that a failure to obey the order may lead to its revocation and to the issuance of an order for the commitment of the guardianship and custody of a child. Where the child is in foster care, the order shall set forth the visitation plan for the child and the respondent, as well as for the child and his or her sibling or siblings, if any, and shall require the agency to notify the respondent of case conferences. The order shall further contain a determination in accordance with subdivision 12 of section 384-b of the Social Services Law of the existence of any person or persons to whom notice of an adoption would be required pursuant to section 111-b of the Domestic Relations Law and, if so, whether such person or persons were given notice of the termination of parental rights proceeding and whether such person or persons appeared.

(c) Not later than 60 days in advance of the expiration of the period of suspended judgment, the petitioner shall file a report with the Family Court and all parties, including the respondent and his or her attorney, the attorney for the child and intervenors, if any, regarding the respondent's compliance with the terms and conditions of the suspended judgment. The court may set [a time or] additional times at which the respondent or the authorized agency caring for the child shall report to the court [as to whether there is] regarding compliance with the terms and conditions of the suspended judgment.

(d) If a respondent fails to comply with the terms and conditions of an order suspending judgment made pursuant to section 631 of the Family Court Act or section 384-b(8)(c) of the Social Services Law:

- (1) a [petition for] motion or order to show cause seeking the revocation of the order may be filed;
- (2) the [petition] affidavit accompanying the motion or order to show cause shall contain a concise statement of the acts or omissions alleged to constitute noncompliance with the order;
- (3) [service of a summons and a copy of the petition shall be made as provided for by section 617 of the Family Court Act; and] the motion or order to show cause shall be served upon the respondent by mail at the last known address or as directed by the court and shall be served upon all

attorneys, the attorney for the child and intervenors, if any;

(4) during the pendency of the motion or order to show cause, the period of the suspended judgment is tolled; and

(5) if, after a hearing or upon the respondent's admission, the court is satisfied that the allegations of the [petition] motion or order to show cause have been established and upon a determination of the child's best interests, the court may modify, revise or revoke the order of suspended judgment or if exceptional circumstances warrant and the suspended judgment has not already been extended, the court may extend the suspended judgment for an additional period of up to one year.

(e) The court may at any time, upon notice and opportunity to be heard to the parties, their attorneys and the attorney for the child, revise, modify or enlarge the terms and conditions of a suspended judgment previously imposed.

(f) If the child remains in foster care during the pendency of a suspended judgment or after a suspended judgment has been deemed satisfied or if guardianship and custody have been transferred to the agency as a result of a revocation of the suspended judgment, a permanency hearing must be scheduled for a date certain and must be completed immediately following or not more than 60 days after the earlier of the Family Court's oral announcement of its decision or signing and filing of its written order. Subsequent permanency hearings must be held as required by section 1089 of the Family Court Act at intervals of not more than six months from the date of completion of the prior permanency hearing.