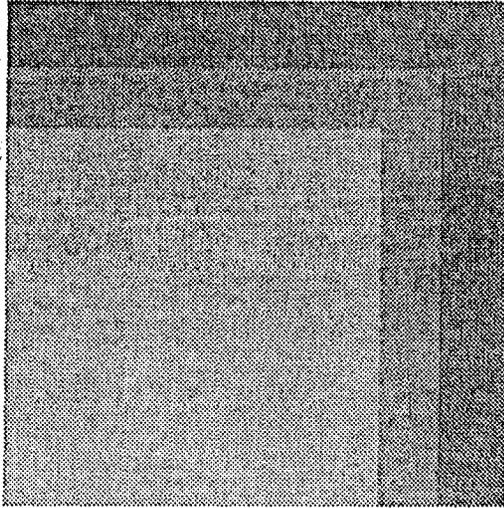


# The Family Court & You

*An Informational Guide to the Family Court*



## Table of Contents

The Family Court & You: An Informational Guide . . . . .	iii
Introduction . . . . .	v
1. How to Begin a Family Court Case . . . . .	1
2. Before You See a Judge . . . . .	1
3. First Court Appearance . . . . .	1
4. Legal Assistance . . . . .	2
5. Working with Your Lawyer . . . . .	2
6. Fact-finding Hearing . . . . .	3
7. Dispositional Hearing . . . . .	3
8. Types of Cases in Family Court . . . . .	4
Family Offense/Domestic Violence . . . . .	4
How to Enforce an Order of Protection . . . . .	7
Paternity . . . . .	8
Custody and Visitation . . . . .	9
Guardianship . . . . .	10
Support . . . . .	11
Child Protective Proceedings . . . . .	13
Voluntary Placement Reviews and Foster Care Reviews . . . . .	15
Termination of Parental Rights . . . . .	16
Adoption . . . . .	17
Juvenile Delinquency . . . . .	18
Persons in Need of Supervision (PINS) . . . . .	20
9. Appealing Your Case . . . . .	21

10. Who's Who in the Court .....	22
Assistant County Attorney/Assistant Corporation Counsel ...	22
Assistant District Attorney .....	22
Caseworker/Child Protective Worker .....	22
Court Appointed Special Advocate (CASA) .....	22
Court Attorney .....	22
Court Clerk/Court Assistant .....	22
Court Officer/Deputy Sheriff .....	22
Court Reporter .....	23
Hearing Examiner .....	23
Interpreter .....	23
Judge .....	23
Law Guardian .....	23
Petition Clerk .....	23
Petitioner .....	23
Probation Officer .....	24
Respondent .....	24
Support Collection Unit (SCU) .....	24
Statewide Informational Telephone Services .....	25
Directory of New York State Family Courts .....	26

**\*\* It is important to note that the information contained in this guide should not be relied on in place of, or to avoid, legal representation. To the extent practicable, individuals involved in family court actions should consult with a lawyer, legal clinic or legal organization. Interested persons can get information about attaining legal advice through local bar organizations.**

## The Family Court and You

### An Informational Guide to the Family Court

This informational guide to the New York State Family Court was prepared as a collaborative public education project of the New York State Bar Association's Committee on Women in the Law and Committee on Children and the Law; the Women's Bar Association of the State of New York; the Fund for Modern Courts; and the New York State Unified Court System.

This guide will give you an understanding of the types of cases that are handled in the Family Court, and will tell you what to expect as a party involved in a Family Court case. It will also explain the various ways to obtain legal representation and access to legal services.

April 1998

## Introduction

The Family Court handles most legal matters affecting families and children, although the State Supreme Court is the only court that can grant a divorce, separation or annulment of a marriage.

Bringing a matter before the Family Court for the first time may seem complicated and time-consuming. It is important to listen carefully to the court personnel and judge involved in the case. Of course, you should pay special attention to the advice of your lawyer if you have one.

The Family Court is open to the public, but a judge hearing a case may decide to close the courtroom or exclude particular people based on the privacy interest of the parties and/or possible harm to the children. Family Court records are not open to the public, although people directly involved in the proceeding can obtain copies of most documents in the case file.

If you cannot speak or understand English, you should inform the judge, hearing examiner or court personnel, who will arrange for an interpreter to assist you.

## 1. How to Begin a Family Court Case

A person or agency wanting to take the case to court must prepare a written description of the circumstances of the case — (called a petition). Depending on the type of action, a clerk or probation officer will interview you and prepare a petition based on what you say in the interview. The clerk or probation officer will make sure that the petition is filed in the court. You will be given a date to appear in court. In some situations you may see a judge on the same day the petition is filed. Once the petition has been filed with the Family Court, it must be delivered or served on the opposing party. The judge will direct the way in which the petition must be served..

## 2. Before You See a Judge

Parties appearing for the first time in Family Court do not always appear immediately before a judge. Many procedures are available to resolve issues affecting children and families before they go before a judge.

As an example, upon your first visit to the Family Court and depending upon the type of case, you may be directed to speak with someone in a special agency or department called probation. There also may be other agencies in the Family Court which can help to resolve your problem.

In emergency cases, however, in which you need a temporary order of protection to prevent family violence, you have a right to file a petition on the same day you appear in court and to have a hearing on your request on the same day or the next day that the court is open..

## 3. First Court Appearance

At the first court date after a petition is filed, a number of different things can take place. The judge may read the petition and explain the charges or demands for relief. If the parties are not represented by lawyers, the judge will explain the rights of the parties involved in the case. In certain cases, the judge may appoint a lawyer for a person who cannot afford to pay for one (see below Legal Assistance) and may issue a

summons for other persons involved in the case to appear. In certain specific circumstances involving serious charges, the judge may order that an arrest warrant be issued.

#### 4. Legal Assistance

In Family Court proceedings, parties may be entitled to a lawyer or to have a lawyer assigned to them by the judge, depending on the type of case. Of course, parties are always entitled to retain their own lawyer at their own expense. If someone appearing in Family Court cannot afford to pay for a lawyer, the court usually will assign one from a designated panel. In some types of cases, the judge must assign a lawyer to a particular party. Also be aware that in certain counties, special organizations exist that provide legal assistance to Family Court litigants at no cost if their income falls below a certain level. If you wish to apply for an assigned attorney, you should inform the judge, hearing examiner or court personnel, who can explain the necessary procedures.

Children have the right to a lawyer in certain actions such as neglect/abuse, termination of parental rights and delinquency cases. The judge will assign a lawyer called a law guardian for the child. However, in cases involving custody, visitation, foster care review or adoption, the court may assign a law guardian to represent the child, but is not required to do so. Law guardians are lawyers who are appointed by the court to represent the wishes and interests of the child, who is the client. There is no charge for representation by a law guardian assigned by the court.

#### 5. Working With Your Lawyer

Your lawyer, whether private or assigned to you by the court, is there to represent you and protect your rights. **MAKE USE OF YOUR LAWYER.**

Work with your lawyer so that your case can be planned in the best possible way. Anything you tell your lawyer is confidential, which means that your lawyer cannot disclose what you have told him or her without your permission. When you meet with your lawyer for the first time, give

your address and telephone number and get your lawyer's name, address and telephone number. Set a date to meet to go over your case before the next court date and ask whether there are any papers or information which you should bring with you.

The next time you meet with your lawyer, bring any information or papers that will help to explain your side of the case. Your lawyer can help you best if you **GIVE ALL THE FACTS.** At the court hearing, let your lawyer do the talking. If you want to speak, first talk to your lawyer about what you want to say, since things you say without checking with your lawyer might hurt your case..

#### 6. Fact-finding Hearing

A trial in Family Court is called a fact-finding hearing and takes place before a judge. There are no jury trials in Family Court. At this hearing, the judge will decide if the charges in the petition have been proved. The person or agency filing the case must present enough evidence to prove the facts in the petition. If the charges are brought against you, you will have an opportunity to respond. If the facts are not proved, then the case will be dismissed. This means that the case is finished. Sometimes the case is withdrawn, which means that the person or agency who wanted the case heard in Family Court decides not to continue.

#### 7. Dispositional Hearing

If a judge decides that the charges in the petition are true, and there is a legal remedy, then a dispositional hearing will be held. The dispositional hearing may be held immediately following the fact-finding hearing or on another day. At a dispositional hearing, the judge decides what should happen to the parties and children involved in the case.

## 8. Types of Cases in Family Court

You or your child may be involved in one of the types of cases discussed below. Each type of case is begun by the filing of a petition. Each type of petition is designated with an alphabetical letter prefix, such as "A" for adoption, "P" for paternity, and "F" for support.

### **Family Offense/Domestic Violence (O Petition)**

A family offense petition is filed by someone who claims that a family member hurt or threatened him or her or another member of the family or household. Family members include persons related by blood or marriage, formerly married persons, and unrelated persons who have a child in common. Family offense cases may go forward in a Family Court and/or they may be prosecuted in a Criminal Court. Parties to family offense matters can have cases in a Criminal Court and a Family Court at the same time.

The purpose of a family offense proceeding in Family Court is to stop the violence, end the family disruption and obtain protection. The victim who goes to Family Court to start the action is the petitioner. The alleged abuser is the respondent.

A petitioner has the right to an immediate appearance before the court on the day the petition is filed or on the next day the court is in session. The judge will ask the petitioner questions about the petition and if the judge finds "good cause," a temporary order of protection will be issued. A temporary order of protection does not mean that the judge made a finding of wrongdoing. At the same time that the temporary order of protection is issued, the judge may also issue a temporary order of child support. Temporary orders may be changed after the other party appears in court or after a trial takes place.

If a person needs protection during the evening hours or on the weekend when the Family Court is closed, he or she may go to a Criminal Court to obtain an order of protection or to have an existing order of protection enforced or modified. A police officer or law enforcement agent and the District Attorney's office will assist in this process.

At the initial hearing in the Family Court, the court will set another court date (return date) and issue a summons for the respondent to

appear. If the judge determines the petitioner is in immediate danger, the court may issue a warrant for the respondent to be brought to court.

A respondent who is charged with a family offense may admit or deny the allegations in the petition or, without admitting or denying, consent to the entry of an order of protection against him/her. If the respondent denies the allegations, the petitioner has a right to a fact-finding hearing in order to prove the allegations in the petition. If the petitioner proves the case, then the judge will make a finding that the respondent committed a family offense. A dispositional hearing will then be held, based on which the judge will decide on the terms of a court order designed to protect the petitioner.

At a dispositional hearing, a judge may issue a final order of protection (sometimes referred to as a permanent order of protection) on behalf of the petitioner and/or his or her children. A temporary or final order of protection may provide for any or all of the following:

- ↪ require the respondent to move out of the home shared with the petitioner, stay away from the petitioner and his/her home, school and place of employment, and have no contact by telephone or other means with the petitioner and his or her family;
- ↪ require the respondent to refrain from committing family offenses;
- ↪ require a party to pay medical expenses;
- ↪ order temporary custody of any children;
- ↪ permit a parent to visit with a child at stated times;
- ↪ permit one party to enter the home accompanied by a police officer during a specific time to remove personal belongings;
- ↪ require the respondent to turn in weapons, and/or suspend or revoke a gun license;
- ↪ require the respondent to participate in a batterer's education program, designed to help end violent behavior, which may include referral to an alcohol and/or substance abuse evaluation, treatment and counseling; and/or

- ⇒ require a party to pay restitution up to \$10,000 for damages caused to the victim; and
- ⇒ order a period of probation for the respondent.

Orders of protection are typically issued for one year. The terms of a protective order can only be changed by a judge.

A judge may issue an order of protection for up to three (3) years if there are aggravating circumstances in the case. Aggravating circumstances include physical injury; use of a weapon; repeated violations of orders of protection; prior criminal convictions for acts against the petitioner; and the exposure of children or other family members to harm.

A victim of domestic violence may also file a criminal complaint at the local police precinct, which may result in prosecution and punishment in Criminal Court. In that court, the District Attorney's office prosecutes the case and asks the judge to issue an order of protection for the victim. The defendant may receive a criminal conviction as a result of the prosecution and be sentenced to probation or jail time. The Criminal Court judge may also issue an order of protection.

An order of protection may also be issued by a Supreme Court judge in connection with matrimonial proceedings (divorce or separation).

### **How to Enforce an Order of Protection**

If a respondent violates any part of an order of protection, the petitioner may file a violation petition. For example, a temporary order of protection may prohibit a spouse from entering the family residence, including the lawn of a house, or the lobby of an apartment building. If the spouse violates that condition of the order by coming within those areas, the protected spouse may file a violation petition and the judge may issue a warrant to bring the respondent into court quickly. If the Family Court judge determines that the respondent violated the order, the judge may sentence the respondent to as much as six (6) months in jail for each act committed in violation of the order. The judge may also modify the order of protection.

If a violation of a Family Court order of protection occurs during the evening hours or on the weekend when the Family Court is closed, the petitioner may contact the police and go to a Criminal Court to have the order enforced or modified. A police or law enforcement agent and the district attorney's office will assist in this process.

A violation of a Family Court order of protection may also be prosecuted in a Criminal Court by a District Attorney. Depending on the seriousness of the case, the person who violated the order may be sent to prison for as long as seven (7) years.

### **Paternity (P Petition)**

A paternity petition seeks a decision as to whether a man is the father of the child of a woman to whom that man is not married (an out-of-wedlock child). An order of paternity or order of filiation declares that a man is the father of an out-of-wedlock child.

A paternity petition may be brought by a mother, a person claiming to be a father, a child, a child's next of kin, or the county social services agency.

If the parties do not agree that the man is the father of the child, then the court or the local child support collection unit will order the parties and the child to undergo tests, such as blood tests. These tests show whether the man is likely to be the father of the child. The cost of the tests is paid by the parties or, if both parties are financially unable to pay, the cost may be paid by the local child support collection unit.

If paternity is established, the judge will issue an order of filiation declaring that the man is the father of the child. This order gives the man parental rights as well as responsibilities. The parties may now seek orders of custody and/or visitation and child support.

### **Custody and Visitation (V Petition)**

A court order of custody gives an adult the legal responsibility for caring for a child. If the parties are in agreement about custody, the judge will review the agreement and, in most cases, issue an order of custody without a hearing. If the parties do not agree, then the court will schedule a hearing to determine what custody arrangement is in the best interests of the child. In order to assist the Judge in making that determination, the judge may order psychiatric and/or psychological evaluations of the parties and of the child, and may order an investigation by probation or some other agency. The judge may also appoint a lawyer (called a law guardian) to represent the child. In cases in which it has been proven that a person has committed an act(s) of domestic violence, the court must consider this proof in reaching a custody/visitation decision.

A court order of visitation gives an adult (such as a parent, grandparent or sibling) who does not have custody of a child the right to visit with that child if it is determined that the visitation is in the best interest of the child. If the custodial parent (the parent with whom the child resides) does not consent to visitation, there will be a hearing to assist the judge in determining if visitation is in the best interests of the child. If it is, the judge will set a visitation schedule. An order of "supervised visitation" means that all visits will take place in the presence of another adult, the court-appointed supervisor.

If there is a change in circumstances after a judge has issued an order of custody or visitation, a party may seek to change the order by filing a petition for modification. A judge will then determine whether modifying the custody and/or visitation order will be in the best interests of the child.

### **Guardianship (G Petition)**

A non-parent who does not have custody of a minor child may bring a petition for guardianship to obtain legal authority over the child. The probation department may assist the judge in interviewing and investigating the person seeking to become a guardian. A non-parent may also ask the judge to be appointed as a standby guardian of a child whose natural parent suffers from a progressively chronic or fatal illness. An appointment of guardianship expires when the child reaches the age of 18. The decision whether to grant a guardianship petition is based on the best interests of the child.

### **Support (F or U Petition)**

A support petition can be brought by a parent, spouse or certain other relatives to have the court decide who is legally responsible for the support of a child, spouse or relative, and how much support should be paid. A support petition can also be brought by the county social services agency or the Administration for Children's Services in New York City.

Parents have the legal responsibility to support a child until the child reaches the age of 21 unless the child is married, self-supporting, in the military or, in certain circumstances, leaves home and refuses to obey parents' reasonable rules.

A custodial parent (the parent with whom the child resides) may have the right to receive child support from the child's non-custodial parent and may file a support petition in Family Court asking that the court order the non-custodial parent to pay child support. However, if a child receives public assistance benefits, the social services agency or the Administration for Children's Services in New York City may file a petition against the non-custodial parent asking that the court enter an order of support payable to the agency during the time the family receives the public assistance. If the parents are not married, paternity must be established before a child support order is issued (see Paternity).

Married persons may have a legal responsibility to support their spouse if the spouse cannot support himself or herself. One spouse may file a petition for spousal support in Family Court. The judge will consider the income and circumstances of both spouses and may require one spouse to pay a reasonable amount to the other spouse.

If a person ordered to pay support fails to obey the court order, a violation petition may be filed by the person who is supposed to receive the support or by the Support Collection Unit of the social services agency or the Administration for Children's Services in New York City. In such cases, the respondent has the right to a hearing. If the judge finds that the respondent willfully violated the court order, the judge may sentence the respondent to a maximum sentence of six (6) months in jail. A person who fails to pay child support may also be subject to the suspension of his or her state issued license. The license suspension option applies to drivers, professional, occupational, business, recreational or sporting licenses. In addition, the State Department of Temporary and Disability

Assistance can take a lien on personal property (i.e. car). Individuals found to be in violation may also be charged with criminal penalties for non-support.

A person who pays or receives support based upon a Family Court order has the right to petition the court to increase or decrease the amount of the payments. The petition must describe the change in circumstances which have occurred since the last order, such as a raise in earnings; an increase in need; a loss of employment; or a decrease in earnings. The court will change the terms of the order if it finds that there has been a sufficient change in circumstances.

If an order is paid through the Support Collection Unit, it must be reviewed every three years for a possible adjustment if either the petitioner or the respondent requests the review. If the child is receiving public assistance, the Support Collection Unit has the option of reviewing the case every three years. Parties are notified if the order is changed on the basis of the review and have the right to a review by the court if they object to the change.

### **Child Protective Proceedings (N/A Petition)**

Child abuse and neglect petitions charge that the parent or guardian of a child has harmed or failed to protect, properly care for, or provide needed medical care or schooling for the child. It may be claimed that the child has been physically, sexually or emotionally abused by the parent or guardian. In these cases, the court must assign a law guardian for the child. A law guardian is an independent attorney who represents the interests of the child.

Sometimes a child is taken away from his or her home before a child abuse or neglect petition is filed in the Family Court and before a judge hears the case. This may occur if a child appears to be in very serious danger while with a parent or guardian and there is not enough time to get a court order. If so, the police or officials from a child protective agency may take the child from the parental home before going through the court. This is called emergency removal. In addition, a hospital may refuse to release a child to a parent if it believes such a release would place the child in danger.

If a child is removed on an emergency basis, the parents must be notified immediately of their right to come to court and request a hearing. If a hearing is requested, the child protective agency must come to court within a very short period of time generally, within three days to defend the removal. The court must then decide if the child would be in danger if returned to the parents.

Sometimes a child is removed from a home with the permission of the parent or guardian. However, whether or not the removal of the child was with the parent's consent, the parent should consult a lawyer. If the parent cannot afford a lawyer, he or she should inform the judge, and in this instance a lawyer must be appointed.

Allegations of abuse and/or neglect must be proved at a fact-finding hearing. If the case is not proved, the child must be returned to the parent or guardian. If the court finds that there has been abuse or neglect, the court will then hold a dispositional hearing to determine what should happen to the child. At this hearing, the court will consider the seriousness of the abuse or neglect, the potential danger to the child and the child's best interests. If the court determines that the child should be removed from the home, the court may place the child in foster care with

a non-relative foster family, with a kinship (relative) foster family or with a child care facility for a period of up to one year. The court may also order the child to remain with or be released to the parent/guardian under the supervision of the child protective agency.

At the end of the period of placement ordered by the court, the child may be returned to the parent or guardian. However, the child protective agency may file a petition to extend the child's stay in foster care. This is called an extension of placement petition. The child protective agency must explain why it feels the child should not be returned to the parent/guardian at that time and must present a plan for the permanent care of the child. The plan may include a later return of the child to the parent or guardian or the filing of a petition to terminate the rights of the parents and approve the release of the child for adoption. The court must review the plan for the child every year, and may continue the child in placement until the child reaches 18.

### **Voluntary Placement Reviews (L Petition) and Foster Care Reviews (K Petition)**

Sometimes a parent or guardian is unable to care for a child and voluntarily gives temporary custody of the child to a social services agency. The law requires that if a child has been voluntarily placed in foster care for more than 30 days, the social services agency must file a petition requesting that the court approve the child's placement and a long term plan for the child proposed by the agency. The court must hold a hearing and the parent must be given notice of this hearing. The parents or guardian, a social worker, and a member of the agency involved should be at the hearing. The parents or guardian must have a lawyer appointed for them if they cannot afford to hire one. After the hearing, the judge will decide if the placement is voluntary and necessary.

If a child is in foster care for 18 continuous months or longer, a petition for foster care review will be filed with the Family Court. The Court will then decide what to do with the child who is in foster care. This review could result in a parent losing the right to custody of his or her child, or it could result in a child being returned to his or her parent(s). If a child remains in foster care, there must be another hearing in one year. The parent has a right to a lawyer at a foster care review hearing.

### **Termination of Parental Rights (B Petition)**

Parents of children in foster care, either voluntarily or by court order, who fail to maintain contact with or plan for the future of the child may be subject to a petition to terminate parental rights, also known as a permanent neglect petition. This petition is brought to permanently end the rights of the natural parents and to make the child available (free the child) for adoption. Petitions to terminate parental rights are usually brought by an authorized agency which has responsibility for a child in foster care, although a foster parent can also file a petition to terminate parental rights. The child is assigned an independent attorney called a law guardian. A lawyer may also be assigned to the parent if he or she cannot afford one.

Proceedings to terminate parental rights may also be brought on grounds of abandonment by the parents, the parents' mental illness or mental retardation, or the parents' severe and repeated abuse of the child.

### **Adoption (A Petition)**

In an adoption proceeding, the petitioner seeks to have the court give permanent legal rights and responsibilities to people, other than the child's birth parents. Adoptions are handled by the Family Court, as well as another court called the Surrogate's Court.

There are two types of adoptions: "private placement" and "agency" adoptions. Although the procedures may be slightly different, the effect of both kinds of adoptions is the same.

Private placement adoptions are conducted when individuals seek to adopt without the aid of a child care or adoption agency. Persons who wish to adopt a child, under these circumstances (adoptive parents) must be "pre-certified" (approved) to have temporary custody of the child while the court decides if they can adopt the child.

Agency adoptions refer to cases where a child is already in the custody of an agency and the rights of the birth parents already have been legally terminated. These adoptions are handled through the foster care agency, which investigates the home of adoptive parents, and prepares and files the necessary papers and reports with the court. In some cases, the court may order other agencies, such as probation, to investigate the home of the adoptive parents.

When an adoption is approved, the adoptive parents are considered the child's legal parents. If the child is over the age of 14, the child must consent to the adoption.

## **Juvenile Delinquency (D or E Petition)**

A juvenile delinquent is a child at least seven (7) years of age and under the age of 16 who commits an act that would be a crime if it were done by an adult. In Family Court, the accused child is called a "respondent" and the victim is called a "complainant." The county attorney or corporation counsel (in New York City) is the petitioner and presents the case. In some counties, the Assistant District Attorney will present the case against the juvenile.

A 13, 14 or 15 year-old who commits certain serious, violent acts may be treated as an adult in a Criminal Court and is called a "juvenile offender." The Criminal Court may send the case back to Family Court. The most serious cases in Family Court are called designated felonies.

When a child is arrested, he or she may be brought directly to Family Court, may be held overnight or may be released to a parent and told to come to court on a particular day. Probation intake workers interview the person who made the complaint, the police officer and the accused child. In certain juvenile delinquency cases that do not involve serious violent actions, the probation workers decide if the matter can be adjusted (settled) without going through the court. No one can be forced to talk to the probation worker at this time. However, what is said in the interview will not be disclosed unless and until there is a finding of delinquency by the court. The probation workers may also refer the parties in the case to other services or agencies, including mental health or specialized counseling.

If a case is not adjusted, the county attorney, corporation counsel, police department or probation department will prepare and file a juvenile delinquency petition. If the charges are very serious, the Assistant District Attorney may prepare and file the petition.

If the case is heard in Family Court, a date and a time will be set for a first (intake) hearing. The child must have a lawyer or a law guardian approved by the court to represent him or her. Also, if the parent/guardian cannot afford to hire a lawyer for themselves, the court will appoint one.

At the first hearing, the court will decide if the child can go home with the parent or if the child will be detained (held) until the trial or fact-finding hearing. The probation officer recommends to the court either that

the child be sent home or be temporarily detained in a secure or non-secure facility. The child can be held if the court decides that he or she is unlikely to return to court or might commit a crime before the hearing date.

If the child is detained, a hearing must be held to determine if there is probable cause to hold the child. The case may then proceed to trial (fact finding) and, if the charges are proven beyond a reasonable doubt, to a dispositional hearing. At the dispositional hearing the judge may make a variety of orders including an order that the child remain at home under the supervision of a probation officer or that he or she be placed away from the home. The judge may also order the child to pay restitution for any damages.

Even if the judge decides that the child is a juvenile delinquent, the finding is not the same as a criminal conviction and there is no criminal record against the child. However, the most serious charges, known as designated felonies, do become part of the juvenile's criminal record.

### **Persons in Need of Supervision (PINS) (S Petition)**

A person in need of supervision (PINS) is a person under the age of 16 who does any or all of the following:

- a. Fails to attend school;
- b. behaves in a way that is out of control;
- c. often disobeys parents, guardians, or other authorities;
- d. is in possession of marijuana;
- e. runs away or stays out late.

Before a PINS petition is filed in court, the child and his/her family must meet with a probation officer or a representative of another social service agency, who attempts to resolve the problems and keep the case out of court. This process (called "diversion") can last for up to 90 days. If "diversion" fails, a PINS petition may be filed to ask the court to order treatment or supervision of the child.

A PINS petition may be filed by a parent/guardian, school district or social service agency with whom or with which a child is placed. If a petition is filed, the child is entitled to an attorney (law guardian) appointed by the court. The court also may assign a lawyer to represent the complaining party if he or she cannot afford one. If a child has run away, the court may issue a warrant for his/her arrest. If the court finds that a child should not be released to a parent or guardian, the child might be sent to a relative or to a non-secure facility.

A trial or fact-finding hearing is then held to determine if the statements in the petition are true. If the court finds that the statements in the petition are true, a dispositional hearing is held to determine if the child needs supervision or treatment. If a child is placed by the court in foster care, the Department of Social Services may file a petition for child support against the parent as a result of a PINS proceeding.

## **9. Appealing Your Case**

If you are not satisfied with the court's final decision and order, you may have a right to appeal. This means that a higher court will review the decision of the Family Court. Your lawyer should discuss with you your right to appeal in all cases, and must inform you of this right in juvenile delinquency, PINS and neglect/abuse cases.

The judge's order in your case is served on all the parties or their attorneys. You should discuss with your lawyer whether to appeal the case. If you want to appeal, you should tell your lawyer, who must inform the court by filing a notice of appeal in accordance with time limits specified by law. If your lawyer cannot represent you on the appeal, he or she can assist you in getting a new lawyer appointed.

Family Court decisions are reviewed by the Appellate Division of the Supreme Court, based on the papers and the arguments made by the lawyer on your appeal. The parties do not testify, but may be present at appellate arguments.

In child support and spousal support cases, which are decided by a hearing examiner, there is a special procedure to have a Family Court judge review the decision before it is appealed to the Appellate Division. You must first file objections to the hearing examiner's order, using a form which may be obtained at the Family Court. If you wish to file objections, you or your attorney must complete and deliver written objections to the Clerk of the Family Court within time limits established by law. Your objections will be reviewed by a Family Court judge who will then agree with the order or change it. Either party then has the right to appeal the decision to the Appellate Division.

## 10. Who's Who in the Court

### **Assistant County Attorney/Assistant Corporation Counsel - An**

Assistant County Attorney is a lawyer who represents a county or the Department of Social Services, and files petitions in juvenile delinquency, child abuse and neglect, foster care, termination of parental rights and PINS cases. An assistant county attorney may also represent petitioner's in child support and paternity cases, and may represent the Department of Social Services in such cases when the children receive public assistance. In New York City, an assistant corporation counsel is a lawyer from the New York City Law Department who presents these cases.

**Assistant District Attorney -** In New York City, an assistant district attorney prosecutes juvenile delinquency cases that involve serious crimes. An assistant district attorney may also prosecute some child abuse cases outside New York City.

**Caseworker/Child Protective Worker -** A caseworker or child protective worker is a staff member of a county or city child protective agency who investigates charges of neglect and/or abuse of children. A caseworker/child protective worker files neglect/abuse petitions, brings case records to court, testifies during hearings and makes recommendations as to what should happen to the child(ren). Other social service agency workers are assigned to work with children in foster care and with biological parents trying to regain custody of children in foster care.

**Court Appointed Special Advocate (CASA) -** A person appointed by a judge to investigate and observe cases concerning the placement of children in foster care.

**Court Attorney -** A lawyer who works for the judge. He or she assists the judge in doing legal research, writing decisions and conferencing cases to see if the parties can settle the case without a court hearing.

**Court Clerk/Court Assistant -** The court clerk or court assistant who sits near the judge or hearing examiner and takes notes about the proceeding. These notes become part of the court file.

**Court Officer/Deputy Sheriff -** The persons in charge of security

throughout the Family Court building. They also call the parties into the hearing rooms when the judges or hearing examiners are ready to hear a case. Uniformed court officers or deputy sheriffs are assigned to every courtroom.

**Court Reporter -** The person who keeps a record of all testimony and statements made during hearings. Court reporters take notes during the hearing and may then be asked to type a "transcript." However, in a hearing before a hearing examiner, and sometimes before a judge, the testimony and statements are recorded on tape-recorders. A written transcript of the tape-recordings can be ordered.

**Hearing Examiner -** The hearing examiner is in charge of the hearings in support and paternity cases. The hearing examiner listens to witnesses, examines evidence, decides the outcome of the case and issues orders as to what should happen. The decision of the hearing examiner can be appealed to a judge.

**Interpreter -** The court provides interpreters for people who have difficulty with English. In New York City, Spanish interpreters are usually available in the courthouse. Interpreters for other languages, including sign language for hearing impaired persons, may be ordered by a judge. It is important to make the court aware of the need to provide an interpreter for anyone involved in a case.

**Judge -** The judge is in charge of the courtroom and the hearing. The judge listens to witnesses, examines evidence, decides the outcome of the case and issues orders as to how the case should be resolved.

**Law Guardian -** A lawyer assigned by a judge to represent child(ren) involved in a Family Court case. The law guardian is an advocate for the child and represents the interests and wishes of the child. The law guardian participates in all aspects of a case by presenting and examining witnesses and evidence, and arguing and negotiating on behalf of the child.

**Petition Clerk -** In certain Family Courts, special petition clerks explain the proceedings in Family Court and prepare petitions in custody, visitation, family offense, paternity, guardianship and support cases.

**Petitioner -** The person or agency who files a petition and initiates a case.

**Probation Officer** - Probation officers work for the Department of Probation. They investigate and prepare reports for the judges about the people involved in the cases. In some counties, probation officers assist in preparing petitions, file the petitions with the court, investigate and obtain reports, and monitor court-ordered attendance in programs.

**Respondent** - The person or agency against whom a petition is filed and who responds to the petition.

**Support Collection Unit (SCU)** - A unit of the Department of Social Services that collects, accounts for and disburses support payments made pursuant to court orders. SCU will also enforce support orders by filing violation petitions on behalf of the person entitled to receive support payments.

## Statewide Informational Telephone Services

<b><i>NYS English Domestic Violence Hotline</i></b>	<b><i>800 942-6906</i></b>
<b><i>NYS Spanish Domestic Violence Hotline</i></b>	<b><i>800 942-6908</i></b>
<b><i>Elder Abuse</i></b>	<b><i>800 342-3009</i></b>
<b><i>Child Abuse &amp; Maltreatment Register</i></b>	<b><i>800 342-3720</i></b>
<b><i>Federation on Child Abuse &amp; Neglect (Information &amp; Referral)</i></b>	<b><i>800 342-7472</i></b>
<b><i>Runaway Hotline</i></b>	<b><i>800 448-4663</i></b>
<b><i>Suicide Prevention</i></b>	<b><i>800 333-4444</i></b>
<b><i>Drug Abuse Information Hotline</i></b>	<b><i>800 522-5353</i></b>
<b><i>Alcohol Hotline</i></b>	<b><i>800 252-2557</i></b>
<b><i>AIDS Hotline</i></b>	<b><i>800 541-2437</i></b>
<b><i>NYS Department of Social Services</i></b>	<b><i>800 342-3715</i></b>

***Unified Court System  
Telephone Reference Service  
(Information about State Courts) 800 or 888-COURTNY (268-7869)***

## DIRECTORY OF NEW YORK STATE FAMILY COURTS

### **New York City**

Bronx County Family Court  
900 Sheridan Avenue  
Bronx, New York 10451  
(718) 590-3321

Kings County Family Court  
283 Adams Street  
Brooklyn, New York 11201  
(718) 643-2650 or 52

New York City Family Court  
60 Lafayette Street  
New York, New York 10013  
(212) 374-8791

New York City Family Court  
NYC Foster Care Review Term  
60 Lafayette Street  
New York, New York 10013  
(212) 374-7133

Queens County Family Court  
89-14 Parsons Boulevard  
Jamaica, New York 11432  
(718) 520-3991

Richmond County Family Court  
100 Richmond Terrace  
State Island, New York 10301  
(718) 390-5353

**General Information  
for all boroughs:  
(212) 374-3700**

### **Outside New York City**

Albany County Family Court  
One Van Tromp Street  
Albany, New York 12207  
(518) 427-3500

Allegany County Family Court  
Courthouse  
Belmont, New York 14813  
(716) 268-5816

Broome County Family Court  
Hawley Street, Justice Building  
Binghamton, New York 13901  
(607) 778-2156

Cattaraugus County  
Family Court  
1701 Lincoln Avenue, Suite 1140  
Olean, New York 14760-1152  
(716) 373-8035

Cayuga County Family Court  
Courthouse, 3rd Floor  
Auburn, New York 13021  
(315) 255-4306

Chautauqua County Family Court  
Gerace Building  
P.O. Box 149  
Mayville, New York 14757-0149  
(716) 753-4351

Chemung County Family Court  
203-209 William Street  
Elmira, New York 14902-0588  
(607) 737-2902, 2903

Chenango County Family Court  
5 Court Street  
Norwich, New York 13815-1676  
(607) 337-1824

Clinton County Family Court  
137 Margaret Street  
Plattsburgh, N.Y. 12901-2933  
(518) 565-4658

Columbia County Family Court  
401 Union Street  
Hudson, New York 12534  
(518) 828-0315

Cortland County Family Court  
46 Greenbush Street, Suite 301  
Cortland, New York 13045-2725  
(607) 753-5353

Delaware County Family Court  
3 Court Street  
Delhi, New York 13753  
(607) 746-2298

Dutchess County Family Court  
28 Market Street  
Poughkeepsie, New York 12601-3204  
(914) 486-2500

Erie County Family Court  
25 Delaware Avenue  
Buffalo, New York 14202  
(716) 858-8100

Essex County Family Court  
Courthouse  
Elizabethtown, New York 12932  
(518) 873-3320

Franklin County Family Court  
Courthouse

63 W. Main Street  
Malone, New York 12953-1893  
(518) 483-6767, Ext 742

Fulton County Family Court  
County Courthouse  
11 N. William Street  
Johnstown, New York 12095  
(518) 762-3840

Genesee County Family Court  
County Office Bldg.  
P.O. Box 462 Batavia  
New York 14021-0462  
(716) 344-2550, Ext. 228

Greene County Family Court  
Courthouse  
320 Main Street  
Catskill, New York 12414  
(518) 943-5711

Hamilton County Family Court  
Family Court Chambers  
Indian Lake, New York 12842-0780  
(518) 648-5411

Herkimer County Family Court  
Mary Street  
Herkimer, New York 13350-0749  
(315) 867-1139

Jefferson County Family Court  
175 Arsenal Street  
Watertown, New York 13601-2560  
(315) 785-3001

Lewis County Family Court  
Courthouse,  
Lowville, New York, 13367-1396  
(315) 376-5345

Livingston County Family Court  
Courthouse  
2 Court Street  
Geneseo, New York 14454  
(716) 243-7070

Madison County Family Court  
Courthouse  
Wampsville, New York 13163  
(315) 366-2291

Monroe County Family Court  
300 Hall of Justice  
Rochester, New York 14614-2187  
(716) 428-5429

Montgomery County Family Court  
Courthouse  
Broadway, Fonda, New York 12068  
(518) 853-8133

Nassau County Family Court  
1200 Old Country Road  
Westbury, New York 11590  
(516) 571-9033

Niagara County Family Court  
Courthouse  
175 Hawley Street  
Lockport, New York 14094-2758  
(716) 439-7172, 434-1992

Oneida County Family Court  
Courthouse  
200 Elizabeth Street  
Utica, New York 13501-2294  
(315) 337-7492

Onondaga County Family Court  
Onondaga County Courthouse  
Syracuse, New York 13202  
(315) 435-2090

Ontario County Family Court  
Courthouse  
Canandaigua, New York 14424-1447  
(716) 396-4272

Orange County Family Court  
255-275 Main Street  
Goshen, New York 10924  
(914) 291-3030

Orleans County Family Court  
Courthouse  
Albion, New York 14411-1497  
(716) 589-4457

Oswego County Family Court  
39 Churchill Road  
Oswego, New York 13126  
(315) 349-3350

Otsego County Family Court  
197 Main Street  
Cooperstown, New York 13326  
(607) 547-4264

Putnam County Family Court  
40 Gleneida Avenue  
Carmel, New York 10512  
(914) 225-3641, Ext 287

Rensselaer County Family Court  
105 Third Street  
Troy, New York 12180  
(518) 270-3761

Rockland County Family Court  
11 New Hempstead Road  
New City, New York 10956  
(914) 638-5300

St. Lawrence County Family Court  
48 Court Street  
Canton, New York 13617-1199  
(315) 379-2410

Saratoga County Family Court  
35 West High Street  
Ballston Spa, New York 12020-0600  
(518) 885-2226

Schenectady County Family Court  
620 State Street  
Schenectady, New York 12305-2114  
(518) 388-4305

Schoharie County Family Court  
Courthouse  
Schoharie, New York 12157-0669  
(518) 295-8383, 8387

Schuyler County Family Court  
Courthouse  
Watkins Glen, New York 14891  
(607) 535-7143

Seneca County Family Court  
48 West Williams Street  
Waterloo, New York 13165  
(315) 539-6291, (315) 539-6022

Steuben County Family Court  
3 East Pulteney Square  
Bath, New York 14810-1621  
(607) 776-9631, Ext. 3450

Suffolk County Family Court  
400 Carleton Avenue  
P.O. Box 9076  
Central Islip, New York 11722-9076  
(516) 853-4647, 4648

Sullivan County Family Court  
Government Center  
100 North St.  
Monticello, New York 12701  
(914) 794-3000, Ext. 5026

Tioga County Family Court  
20 Court Street  
P.O. Box 10  
Owego, New York 13827  
(607) 687-1730

Tompkins County Family Court  
320 North Tioga Street  
Ithaca, New York 14851-0070  
(607) 277-1517

Ulster County Family Court  
16 Lucas Avenue  
Kingston, New York 12401-0906  
(914) 340-3600

Warren County Family Court  
Warren County Municipal Center  
Route U.S. 9  
Lake George, New York 12845  
(518) 761-6500

Washington County Family Court  
383 Broadway  
Fort Edward, New York 12828  
(518) 746-2501

Wayne County Family Court  
26 Church Street  
Lyons, New York 14489-1180  
(315) 946-5420

Westchester County Family Court  
111 Grove Street  
White Plains, New York 10601  
(914) 285-3600

or

Westchester County Family Court  
420 North Avenue  
New Rochelle, New York 10801  
(914) 633-1290

or

Westchester County Family Court  
53 South Broadway  
Yonkers, New York 10701  
(914) 966-6400

Wyoming County Family Court  
143 N. Main Street  
Warsaw, New York 14569-1193  
(716) 786-3148

Yates County Family Court  
108 Court Street  
Penn Yan, New York 14527-1182  
(315) 536-5127