




MEMORANDUM

September 28, 2021

To: Hon. George Silver
Hon. Edwina Mendelson
Hon. Norman St. George

From: Nancy J. Barry 

Subject: Revision of Uniform Forms for Use in Family Courts

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Attached for your information is a copy of Administrative Order AO/273/ (Exh. A), recently executed upon the recommendation of the Family Court Advisory and Rules Committee, that promulgates 45 forms for use in Family Courts, effective September 29, 2021. Forty-two are revisions of existing forms and three are new forms.

Three newly enacted statutes compel promulgation of the new and revised forms:

- Persons in Need of Supervision: Chapter 97 of the Laws of 2021 eliminated “incurability” as a ground for a Person in Need of Supervision adjudication, thus requiring deletion of the term from Forms 7-4, 7-5 and 7-8.
- Marijuana Regulation and Taxation Act: As part of the comprehensive bill legalizing cannabis, Chapter 92 of the Laws of 2021 eliminated marijuana possession Penal Law §221.05, since it has been repealed, thus requiring revision of Forms 7-4, 7-5 and 7-8. Further, Cannabis Law §127(6) prohibits individuals under probation supervision from being punished for marijuana use unless it has been shown by clear and convincing evidence to be reasonably related to the underlying crime with which the person has been charged. This provision has thus been added to Family Offense Form 8-5.
- New York State Implementation of the Federal Family First Prevention Services Act [Public Law 115-123]: Chapter 56, part L, of the Laws of 2021 contained comprehensive provisions implementing the federal statute that places major restrictions and a new independent evaluation and judicial review process regarding the use of congregate care settings for all categories of placements of juveniles by the Family Court. The new statute is summarized briefly in Exhibit B. Three new forms (General Forms GF-45, GF-45a and GF-46) have been promulgated for use in cases in which a “Qualified Residential

Treatment Program” (QRTP) placement is requested for a date that does not coincide with an existing dispositional, extension of placement or permanency planning hearing. Similar language has been added to 29 forms used in proceedings in which a QRTP placement may be requested, *that is*, in child protective, juvenile delinquency, Persons in Need of Supervision, foster care, destitute minors, reentry into foster care and permanency planning hearings. summary of the new statute is appended as Exhibit B.

Additionally, minor corrections have been made, at the suggestion of the NYS Office of Temporary and Disability Assistance to five child support forms and one paternity form: Forms 4-3, 4-7, 4-17, 4-17-A and 5- 3. The petitions and orders have been clarified to indicate that it is the child’s eligibility for public assistance that is the operative date and the financial disclosure forms both include retirement income and references to the SNAP (food stamp) program. Finally, six forms have been repealed as obsolete: Miscellaneous Forms Misc-1, Misc-2 and Misc-3 in light of chapter 306 of the laws of 2021, which rescinded the authority of courts to approve marriages of seventeen-year-old youth; Persons in Need of Supervision Forms 7-13 and 7-14 in accordance with the elimination of “incorrigibility” from the definition of PINS conduct [L. 2021, c. 97]; and Child Protective Form 10-16, since it has been superseded by permanency and other forms.

These forms will be distributed electronically, will be posted on the Unified Court System CourtNet intranet web-site, as well as its internet web-site (www.nycourts.gov), and will be incorporated into the Universal Case Management System (UCMS-Family). Questions about the forms may be directed to Janet Fink, Deputy Counsel (jfink@nycourts.gov; or 212-428-2150).

cc: Administrative Judges
Hon. Jeanette Ruiz
Family Court Judges
Scott Murphy
Linda Dunlap-Miller
District Executives
Doreen Hanley
Family Court Chief Clerks
Janet Fink

EXHIBIT A

**ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS**

Pursuant to the powers vested in me, and pursuant to sections 214 of the Family Court Act, I hereby rescind the following 48 forms for use in Family Court proceedings in the courts of the State of New York:

Juvenile Delinquency Forms

3-29	Juvenile Delinquency: Order of Disposition
3-30	Juvenile Delinquency: Order of Disposition -After Removal with a Finding
3-31	Juvenile Delinquency: Order of Disposition – Designated Felony – No Restrictive Placement
3-32	Juvenile Delinquency: Order of Disposition – After Removal -Designated Felony – No Restrictive Placement
3-38	Juvenile delinquency – Petition for Extension of Placement and Permanency Hearing
3-39	Juvenile delinquency – Order on Petition for Extension of Placement and Permanency Hearing
3-40	Juvenile delinquency - Petition for Violation of Order of Disposition – Probation or Suspended Judgment
3-41	Juvenile delinquency - Petition for Violation of Order of Disposition – Probation or Suspended Judgment

Child Support Forms

Form 4-3a	Petition (Commissioner)
Form 4-7	Order of Support
Form 4-7a	Order After Filing of Objections
Form 4-17	Financial Disclosure Affidavit
Form 4-17a	Financial Disclosure Affidavit (Short Form)

Paternity Forms

Form 5-3	Paternity Petition (Commissioner)
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Persons in Need of Supervision Forms

7-4	Person in Need of Supervision – Petition
7-5	Person in Need of Supervision -Order of Fact-finding
7-8	Person in Need of Supervision – Order of Fact-finding and Disposition
7-13	Person in Need of Supervision -Petition for Transfer for Incurrigibility
7-14	Person in Need of Supervision – Order of Transfer for Incurrigibility
7-15	Person in Need of Supervision – Petition for Violation

- 7-16 of Order of Disposition – Probation or Suspended Judgment
Person in Need of Supervision – Order on Violation of Order of Disposition – Probation or Suspended Judgment
- 7-17 Person in Need of Supervision – Order on Violation of Order of Placement Disposition
- 7-18 Person in Need of Supervision – Petition for Extension of Placement and Permanency Hearing
- 7-19 Person in Need of Supervision – Extension of Placement and Permanency Hearing Order

Family Offense Form

- 8-5 Family offense – Order of Fact-finding and Disposition

Child Protective Forms

- 10-1 Order Directing Temporary Removal of Child (Before Filing of Petition)
- 10-1-c Application for Pre-petition Temporary Removal of Children from Home
- 10-2 Order on Application for Temporary Removal of Child (After Petition Filed)
- 10-5 Order on Application for Return of Child Temporarily Removed From Home
- 10-10 Child protective – Order of Fact-finding, Disposition and Permanency Hearing
- 10-13 Child protective – Notice of Motion for Violation of Disposition
- 10-13a Child protective – Affidavit in Support of Motion for Violation of Disposition
- 10-14 Child protective- Order – Violation of Disposition
- 10-16 Child protective – Order Releasing Agency and Changing Placement

Destitute Minor Forms

- 10-C-1 Destitute child - Petition
- 10-C-2 Destitute child – Preliminary Order
- 10-C-4 Destitute child -Order of Fact-finding and Disposition

Foster Care Placement Forms

- 358-a-1 Foster care placement – Petition for Approval of an Instrument
- 358-a-4 Foster care placement -Temporary Order on Petition for Approval of an Instrument
- 358-a-5 Foster care placement – Order of Disposition on

Petition for Approval of an Instrument

Permanency Hearing and Reentry into Foster care Forms

PH-5	Permanency Order
PH-6	Permanency Order – Child Freed for Adoption
PH-7	Reentry into Foster Care – Order to Show Cause
PH-7c	Reentry into Foster Care – Agency Affidavit in Support of Order to Show Cause
PH-8	Order on Motion to Reenter Foster Care

Miscellaneous: Marriage Forms

Misc.-1	Petition for Approval of Issuance of Marriage License
Misc.-2	Order on Petition for Approval of Issuance of Marriage License
Misc.-3	Notice to 17-year Olds Who Want to Get Married

I hereby prescribe the following 45 forms for use in Family Court proceedings in the State of New York:

General Forms [NEW FORMS]

GF-45	<i>Family First Prevention Services Act -Notice of Motion for Approval of Placement in a Qualified Residential Treatment Program (QRTP)</i>
GF-45a	<i>Family First Prevention Services Act – Affidavit in Support of Motion for Approval of Placement in a Qualified Residential Treatment Program (QRTP)</i>
GF-46	<i>Family First Prevention Services Act -Order on Motion for Approval of Placement in a Qualified Residential Treatment Program (QRTP)</i>

Juvenile Delinquency Forms

3-29	Juvenile Delinquency: Order of Disposition
3-30	Juvenile Delinquency: Order of Disposition -After Removal with a Finding
3-31	Juvenile Delinquency: Order of Disposition – Designated Felony – No Restrictive Placement
3-32	Juvenile Delinquency: Order of Disposition – After Removal -Designated Felony – No Restrictive Placement
3-38	Juvenile delinquency – Petition for Extension of Placement and Permanency Hearing
3-39	Juvenile delinquency – Order on Petition for Extension of Placement and Permanency Hearing
3-40	Juvenile delinquency - Petition for Violation of Order of Disposition – Probation or Suspended Judgment

3-41 Juvenile delinquency - Petition for Violation of Order of Disposition – Probation or Suspended Judgment

Child Support Forms

Form 4-3a Petition (Commissioner)
Form 4-7 Order of Support
Form 4-7a Order After Filing of Objections
Form 4-17 Financial Disclosure Affidavit
Form 4-17a Financial Disclosure Affidavit (Short Form)

Paternity Forms

Form 5-3 Paternity Petition (Commissioner)

Persons in Need of Supervision Forms

7-4 Person in Need of Supervision – Petition
7-5 Person in Need of Supervision – Order of Fact-finding
7-8 Person in Need of Supervision – Order of Fact-finding and Disposition
7-15 Person in Need of Supervision – Peition for Violation of Order of Disposition
7-16 Person in Need of Supervision – Order on Violation of Order of Disposition – Probation or Suspended Judgment
7-17 Person in Need of Supervision – Order on Violation of Order of Placement Disposition
7-18 Person in Need of Supervision – Petition for Extension of Placement and Permanency Hearing
7-19 Person in Need of Supervision – Extension of Placement and Permanency Hearing Order

Family Offense Form

8-5 Family offense- Order of Fact-finding and Disposition

Child Protective Forms

10-1 Order Directing Temporary Removal of Child (Before Filing of Petition)
10-1-c Application for Pre-petition Temporary Removal of Children from Home
10-2 Order on Application for Temporary Removal of Child (After Petition Filed)
10-5 Order on Application for Return of Child Temporarily Removed From Home
10-10 Child protective – Order of Fact-finding, Disposition and Permanency Hearing
10-13 Child protective – Notice of Motion for Violation of

10-13a Disposition
Child protective – Affidavit in Support of Motion for
Violation of Disposition
10-14 Child protective- Order – Violation of Disposition

Destitute Minor Forms

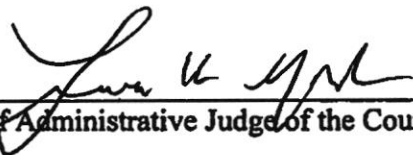
10-C-1 Destitute child - Petition
10-C-2 Destitute child – Preliminary Order
10-C-4 Destitute child -Order of Fact-finding and Disposition

Foster Care Placement Forms

358-a-1 Foster care placement – Petition for Approval of an
Instrument
358-a-4 Foster care placement -Temporary Order on Petition
for Approval of an Instrument
358-a-5 Foster care placement – Order of Disposition on
Petition for Approval of an Instrument

Permanency Hearing and Reentry into Foster care Forms

PH-5 Permanency Order
PH-6 Permanency Order – Child Freed for Adoption
PH-7 Reentry into Foster Care – Order to Show Cause
PH-7c Reentry into Foster Care – Agency Affidavit in
Support of Order to Show Cause
PH-8 Order on Motion to Reenter Foster Care


Chief Administrative Judge of the Courts

Dated: September 23, 2021

AO/273/21

EXHIBIT B

Implementation of the Federal *Family First Prevention Services Act* [Laws of 2021, ch. 56, Part L.]: A Brief Summary

Janet R. Fink, Deputy Counsel
August, 2021

The Education, Labor and Family Assistance Article VII language bill, enacted in conjunction with the Fiscal Year 2021-2022 New York State budget, included provisions to implement the congregate care sections of the Federal *Family First Prevention Services Act* [Public Law 115-123], which take effect in New York State on September 29, 2021.

a) Scope of the legislation: With the stated aim of sharply reducing the use of congregate care of children nationally, the Federal act requires all states to establish a new layer of assessments and hearings in their Family or Juvenile Courts to approve or disapprove all placements of children in non-secure, group settings. A few narrow categories of specialized facilities are exempted, *i.e.*, facilities for pregnant and parenting teens, youth suspected of having been trafficked, youth over 18 who require a supported transitional living environment, residential substance abuse programs for families and youth placed or committed to secure facilities after adjudications or convictions for serious crimes. P.L. 115-123 §§50741, 50742. Both the New York State and Federal statutes apply to all categories of juvenile cases in Family Court for which New York State receives reimbursement from the Federal government under Title IV-E of the *Social Security Act*, including child abuse and neglect, voluntary foster care, Persons in Need of Supervision, juvenile delinquency, destitute minors, youth reentering foster care and youth freed or surrendered for adoption but not yet adopted.

b) Assessment by Qualified Individual: Where placement of a child in a "qualified residential treatment program" (QRTP) is proposed, for example, as a disposition in a child protective or juvenile delinquency proceeding – or where a social services district proposes a transfer of a child already in its custody into a QRTP -- an independent evaluation by a "qualified individual" (QI) must be done either prior to the placement or no later than 30 days after the child enters the QRTP. Social Services Law §409-h(1)(a); P.L. 115-123, §50741; 42 U.S.C.A. §672(k)(3)(A). The QI is defined in the Federal act as "*a trained professional or licensed clinician who is not an employee of the State agency and who is not connected to, or affiliated with, any placement setting in which children are placed by the State.*" [P.L. 115-123, §50742; 42 U.S.C.A. §675(a)(c)(1)(D)]. The new New York State statute defines the QI in Social Services Law §409-h(5) as follows:

"Qualified individual" shall mean a trained professional or licensed clinician acting within their scope of practice who shall have current or previous relevant experience in the child welfare field. Provided however, such individual shall not be an employee of the office of children and family services, nor shall such person have a direct role in case management or case planning decision making authority for the child for whom such assessment is being conducted, in accordance with 42 United States Code sections 672 and 675a and the state's approved title IV-E state plan.

The QI must use an “age-appropriate, evidence-based, validated, functional assessment tool approved by the federal government” to evaluate the appropriateness of the particular QRTP in meeting the needs and long- and short-term goals of the child and in providing the appropriate level of care in the “least restrictive setting.” Soc. Serv. Law §409-h(1)(a); P.L. 115-123, §50742; 42 U.S.C.A. §675(a)(c)(1)(A). The QI must work in conjunction with the child’s family and permanency planning team, which must include, among others, family members, relatives, “fictive” kin and, if the child is 14 years of age or older, members selected by the child, as well as “appropriate professionals,” who may include the attorney for child and/or parent, teachers, medical personnel, clergy and mental health providers. Soc. Serv. Law §409-h(1)(b); P.L. 115-123, §50742; 42 U.S.C.A. §675(a)(c)(1)(B)(ii). Both the State and Federal laws require the QI to state the basis for his or her recommendation and indicate that a “shortage or lack of foster homes” is not a justification for a determination that the child’s needs cannot be met in a foster family home. Soc. Serv. Law §409-h(1)(c); P.L. 115-123, §50742; 42 U.S.C.A. §675(a)(c)(1)(C). If the QI determines that the QRTP is not the most appropriate setting, the written recommendation must indicate whether one of the specialized settings would be suitable, *i.e.*, programs for pregnant and parenting teens, youth trafficked or at risk of trafficking, or transitional facilities for older youth. Soc. Ser. Law §409-h(1)(c).

No later than five days after completion of the assessment and, in accordance with Family Court Rule 205.18,¹ not less than ten days in advance of scheduled hearing date, the QI or his or her designee must provide the written report and recommendations, along with documentation, to the attorneys for the child and parent, the parent, the local social services district or NYS Office of Children and Family Services, as applicable, as well as the parties to the proceeding, while “redacting any information necessary to comply with federal and state confidentiality laws.” [Soc. Ser. Law §409-h(2)].

c) Review by the Family Court: The Family Court is required to make a determination “approving or disapproving” the recommended QRTP placement no later than 60 days after the child has entered the facility. Significantly, the time-limits in both the Federal and New York State statutes are extremely strict with a harsh consequence for non-compliance, that is, that if the Family Court determination does not occur on a timely basis, New York State will lose Federal Title IV-E reimbursement for the entire duration of the child’s placement. See P.L. 115-123, §50742; 42 U.S.C.A. §675(a)(c)(2); Soc. Serv. Law §§358-a(3)(g)(ii); 393(2)(a); Family Court Act §§353.7(3); 756-b(2)(b); 1017(5)(b); 1055(j)(ii); 1055(c)(ii); 1089(d)(2)(vii)(H)(II); 1091-a(3); 1097(2)(b), 1097(3).² To the extent possible, the QRTP hearing may be coordinated with already-scheduled dispositional, extension of placement or permanency planning hearings, if the hearing can occur either prior to the child’s entry into the QRTP or within the 60-day time limit. Soc. Ser. Law §393(5); Family Court Act §§353.7(6); 756-b(3)(b); 1055-c(6); 1091-a(7); 1097(7).

¹ A new Family Court Rule 205.18 was promulgated on Aug. 19, 2021 to implement the statute. See Admin. Order #251/2021 [22 NYCRR §205.18].

² For additional information regarding the Federal requirements for the Qualified Individual’s assessment and Family Court review in the *Family First Prevention Services Act*, see also U.S. Dept. of Health & Human Services Admin. On Children, Youth & Families Children’s Bureau, Program Instruction ACYF-CB-PI-18-07 (July 9, 2018) at 10-11; *Family First Prevention Services Act of 2018: A Guide for the Legal Community* (American Bar Association, 2020) at 23; Children’s Defense Fund, Amer. Acad. Of Pediatrics, ChildFocus, FosterClub, Generations United, Juvenile Law Center & National Indian Child Welfare Assoc., *Implementing the Family First Prevention Services Act: A Technical Guide for Agencies, Policymakers and Other Stakeholders* (Jan., 2020), at 100-104.

Where a timely hearing has not already been scheduled, the Family Court must schedule one and the local social services district, petitioner or agency recommending the placement must notify all parties, including the attorney for child – a notification that may be combined with the notice of change of placement required by Family Court within the earlier of the date the decision was made to place the child in the QRTP or one business day following the child's entry into the QRTP. See, e.g., Family Court Act §§353.7(2)(a); 756-b(2)(a); 1091-a(2)(a) 1097(2)(a). Upon a motion by any party or the attorney for the child or *sua sponte*, and with the consent of all parties, the Family Court may make its determination on the written documentation submitted without conducting an evidentiary hearing, but in such a case, the Court must issue its written determination "expeditiously, but no later than five days." See Soc. Ser. Law §393(3).

The Family Court is required to consider the documentation submitted, including, *inter alia*, the QI assessment and must determine and state in its written order, along with its reasons, "*whether the needs of the child can be met through placement in a foster family home and, if not, whether placement of the child in a qualified residential treatment program provides the most effective and appropriate level of care for the child in the least restrictive environment and whether that placement is consistent with the short-term and long-term goals for the child, as specified in the child's permanency plan.*" Soc. Ser. Law §393(2)(a)(ii). See also P.L. 115-123, §50742; 42 U.S.C.A. §675(c)(a)(1)(A)(ii); Family Court Act §353.7(3)(a)(ii), 355.5(10(a), 756-b(3)(a)(ii), 1055-c(2)(b), 1089(c)(5)(ix)(C)(6)(i), 1091-a(3)(b), 1097(3)(b). Where the QI disapproves the placement, the Family Court may only approve it if it finds and states in its written order with reasons:

- (1) circumstances exist that necessitate the continued placement of the child in the qualified residential treatment program;
- (2) there is not an alternative setting available that can meet the child's needs in a less restrictive environment; and
- (3) that continued placement in the qualified residential treatment program is in the child's best interest.

Soc. Ser. Law §393(2)(a)(iii)(A); Family Court §§353.7(iii)(A); 756-b(3)(a)(iii)(A), 1055-c(2)(c)(i), 1091-a(3)(c)(i), 1097(3)(c)(i).

If the Family Court disapproves the QRTP placement, the Court must set a schedule for the local social services district to come forward with either a plan for family reunification or an alternative plan "*for the child's care and welfare that is in the best interest of the child and in the most effective and least restrictive setting as the facts of the case may require. If a new placement order is necessary due to restrictions in the existing governing placement order, the court may issue a new order.*" Soc. Ser. Law §393(2)(b). See also, Family Court Act §§353.7(3)(b), 756-b(3)(b), 1055-c(3), 1091-a(4), 1097(4).

Disapproval of the QRTP placement by either the QI or the Family Court will limit the federal reimbursement available for the placement to a 30-day period starting "*on the date that the determination is made that the placement is no longer the recommended or approved placement for the child.*" P.L. 115-123, §50741; 42 U.S.C.A. §672(a)(3)(B). Additionally, there is a continuing obligation under the Federal law to regularly assess the child's continuing need to be in a congregate, rather than a foster family home setting or return home, including a requirement that the State agency present evidence at each status review or permanency planning hearing. If a child under 13 has been placed in a QRTP for more than six months, or if a child 13 years of age or older has been placed in excess of 18 months, the State agency

(NYS Office of Children and Family Services) must submit documentation with the Commissioner's signature to justify continued placement to the Children's Bureau of the US Department of Health and Human Services. See P.L. 115-123, §50742; 42 U.S.C.A. §675(a)(c)(5).

d) Data requirements: Commencing on September 29, 2022, the NYS Office of Children and Family Services is required to maintain on its web-site data including the total number of youth placed in QRTP's whose placements were determined to be inappropriate, the number whose placements were approved and "any other information" deemed appropriate by NYS OCFS to "assess the effectiveness of the implementation of the *Family First Prevention Services Act*.

Effective: Sept. 29, 2021.