

F.C.A. §1095, 1097
S.S.L. §393, 409-h

Form 10-C-4
(Destitute Child – Order of Fact-finding
and Disposition)
9/2021

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

CIN #
(A) Child (ren) under Eighteen Years
of Age Alleged to be Destitute

Docket No.

ORDER OF FACT-FINDING AND
DISPOSITION – DESTITUTE CHILD

Parent(s) or Other Party/Parties

NOTICE: WILLFUL FAILURE TO OBEY THE TERMS AND CONDITIONS OF THIS ORDER MAY RESULT IN COMMITMENT TO JAIL FOR A TERM NOT TO EXCEED SIX MONTHS.

IF YOUR CHILD STAYS IN FOSTER CARE FOR 15 OF THE MOST RECENT 22 MONTHS, THE AGENCY MAY BE REQUIRED BY LAW TO FILE A PETITION TO TERMINATE YOUR PARENTAL RIGHTS AND MAY FILE BEFORE THE END OF THE 15-MONTH PERIOD. IF THE PETITION IS GRANTED, YOU MAY LOSE YOUR RIGHTS TO YOUR CHILD AND YOUR CHILD MAY BE ADOPTED WITHOUT YOUR CONSENT.

**THE NEXT COURT DATE IS [specify date/time]:
THE NEXT PERMANENCY HEARING SHALL BE HELD ON [SPECIFY DATE/TIME]:¹**

¹ Placement cases only: No date needs to be set if : (i) the petition is dismissed; or (ii) the child has not been placed outside of the home; or (iii) has been finally discharged from care; or (iv) custody or guardianship was ordered pursuant to Family Court Act Article 6. If the child has been placed and the child has a sibling or half-sibling placed outside of the home, whose permanency hearing is scheduled before this Court, the date certain shall be the same as the date certain for the sibling’s or half-sibling’s permanency hearing, unless the sibling or half-sibling was remanded or placed on a juvenile delinquency or PINS petition or unless he or she has been freed for adoption.

The petition of [specify]: _____ under Article 10-C of the Family Court Act,
sworn to on [specify date]: _____, having been filed in this Court alleging that the above-
named child is destitute; and

Notice having been duly given to the parent(s) or other caretaker(s), pursuant to section 1093 of
the Family Court Act; and [Include separate paragraphs for each person notified, as necessary]:

[Specify name]: _____, parent caretaker of the child(ren), having:

appeared with counsel without counsel waived counsel not appeared ;
 not appeared after service not appeared but service could not be made after every
reasonable effort had been made to effect service not appeared but counsel appeared;

[Specify name]: _____ parent caretaker of the child(ren), having:

appeared with counsel without counsel waived counsel not appeared ;
 not appeared after service not appeared but service could not be made after every
reasonable effort had been made to effect service not appeared but counsel appeared;

And the child(ren) having been represented by (an) attorney(s);

And the following other interested adults, as defined in Family Court Act §1092, were present
and intervened and participated in the hearing [specify name(s) and relationship(s) to child(ren)]:

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

And the needs of the child having been determined in accordance with the *Indian
Child Welfare Act*;

And the following having been duly notified [check applicable box(es)]:

parent/caretaker tribe/nation [REQUIRED]

United States Secretary of the Interior [REQUIRED if tribal contact
undetermined];

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;

And the Court, after [check box]

hearing the proof and testimony offered in relation to the case;

OR

accepting the consent of the parent(s) or other caretaker(s), Petitioner and child(ren)'s attorney to the
entry of an order of fact-finding, pursuant to Family Court Act §1095);

;

And the Court having found

by a preponderance of the evidence that the child(ren) meet the definition of destitute child(ren) pursuant to section 1092 of the Family Court Act on the following grounds [specify]:

by a preponderance of the evidence that the child(ren) do NOT meet the definition of destitute child(ren) pursuant to section 1092 of the Family Court Act and the petition is hereby DISMISSED.

And, where the child(ren) have been found to be destitute, the matter having thereafter duly come on for a DISPOSITIONAL HEARING before the Court,

[Applicable only where hearing was heard jointly with hearing of Family Court Act Article 6 custody or guardianship petition, pursuant to Family Court Act §§1055-b, 1095(d)(4); CHECK BOX if applicable]:

And the hearing having been heard jointly with the **custody** **guardianship petition,**

Docket # [specify]:

And the matter having duly come on to be heard, and the above-named person(s) having been given notice and an opportunity to be heard, as indicated above,

The Court, after having made an examination and inquiry into the facts and circumstances of the case and into the surroundings, conditions, and capacities of the persons involved, finds and determines the following:

[Required findings in cases where the child(ren), who had NOT been ordered temporarily placed earlier in the case, is/are ordered placed; otherwise, skip I and II and go to III]:

The Court finds and determines that:

I. Required “Best Interests” and “Reasonable Efforts” Findings for Newly-placed Children

[check applicable boxes and provide case-specific reasons in both A and B, below]:

A. Continuation of the child(ren) in, or return of the child(ren) to, the child(ren)'s home

would would not be contrary to the best interests of the child(ren) because [specify facts and reasons]:

This determination is based upon the following information [check applicable box(es)]:

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

B. Reasonable efforts, where appropriate, to prevent or eliminate the need for placement of the child(ren) away from the home, and, if the child(ren) was/were temporarily placed without court order prior to the date of this hearing, to return them home safely [check applicable box and state reasons as indicated]:

- were made as follows [specify]:

- were not made but the lack of efforts was appropriate;

- were not made.

This determination is based upon the following information [check applicable box(es)]:

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

II. Findings Regarding Alternatives to Removal to Foster Care:

Based upon the investigation conducted by the Commissioner of Social Service,
[Check applicable box(es)]:

- The following person [specify]: is a caretaker not named above;
- interested adult; relative; suitable person with whom the child(ren) may appropriately reside.

[Applicable to caretakers, interested adults, relatives and other suitable persons]: Such person:

- seeks approval as a foster parent in order to provide care for the child(ren);
 - wishes to provide care and custody for the child(ren) without foster care subsidy during the pendency of any order herein.
 - may be a resource but it has not yet been determined whether as a foster parent or custodian.
- There is no relative or suitable person with whom the child(ren) may appropriately reside.

III. Required Findings Regarding Transitional Services and Out-of-State Placements:

[Required regarding child(ren) who will reach 14 years of age before the next permanency hearing]: The services, if any, needed to assist the child(ren) to make the transition from foster care to independent living are [specify]:

[Required regarding child(ren) placed outside New York State]: Placement outside New York State is is not appropriate, necessary and in the child(ren)'s best interests;

IV. Required findings where approval of placement in a Qualified Residential Treatment Program (QRTP) is requested [DELETE if inapplicable]:

This Court, upon examination of the motion papers and supporting affidavit(s); the Qualified Individual's written assessment of the appropriateness of the requested placement; and any response thereto, including [specify]: ; and [specify other information considered]:

; and upon hearing testimony in relation thereto upon consent of all parties without a hearing, finds the following [check applicable box(es)]:

A. The needs of the child can cannot be met through placement in a foster family home because [specify facts and reasons]:

B. Placement of the child in a Qualified Residential Treatment Program (QRTP) does does not provide the most effective and appropriate level of care for the child in the least restrictive environment because: [specify facts and reasons]:

C. Placement in [specify name of QRTP]:
 is is not consistent with the short-term and long-term goals for the child, as specified in the child's permanency plan because [specify facts and reasons]:

D. [Applicable to initial QRTP placement only]: Where the Qualified Individual has determined that the placement of the above-named child in the Qualified Residential Treatment Program (QRTP) is not appropriate, the Court nevertheless finds:

Circumstances exist that necessitate the continued placement of the above-named child

in the Qualified Residential Treatment Program (Q RTP) as follows [specify facts and reasons]:

There is not an alternative setting available that can meet the above-named child's needs in a less restrictive environment; **and**

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

NOW therefore, upon findings made in the [check applicable box(es)]:

fact-finding, **dispositional hearing**; **and upon all proceedings had herein, it is hereby**

A. Order of Fact-finding or Dismissal:

ADJUDGED that facts sufficient to sustain the petition herein have have not been established, in that [specify]:

; and it is hereby

[Check all applicable box(es); if different findings were made for each child, list each child and finding separately]:

ADJUDGED that the above-named child(ren) (is) (are) DESTITUTE as defined in section 1092 of the Family Court Act

OR

ORDERED, that the petition filed herein is DISMISSED.

B. Order of Disposition [Applicable where one or more children have been adjudicated as destitute; check all applicable box(es)]:

And the Court, having considered the best interests and safety of the child(ren) hereby orders the following:

ORDERED that the child(ren) (is) (are) placed in the care and custody of the [check box]:

Commissioner of Social Services of [specify county]:

NYC Administration for Children's Services

OR

[Applicable where dispositional hearing is heard jointly with custody or guardianship hearing under Article 6 of the Family Court Act in accordance with Family Court Act §1096]:

- ORDERED that [specify relative(s) or other suitable person(s)]:
is/are appointed guardian granted custody of [specify child(ren)]:
pursuant to an Order granted on Docket # [specify]: _____, dated [specify]:
thereby terminating the jurisdiction of this Court over this proceeding, on the ground
that such person(s) will provide a safe and permanent home for the child(ren);

And this Court having further found that [Check one of the following boxes]:

- all parties, including the attorney of the child and any foster parent who has had
custody of the child in excess of one year, have consented to such custody or
guardianship;

OR

- the following parent(s)[specify]: _____ has/have not consented
but this Court has found extraordinary circumstances supporting custody or
guardianship;

OR

- the parent(s) has/have consented but the following other party or parties has/have
not consented [specify]: _____
but this Court find that custody or guardianship is in the best interests of the
child(ren);

And it is further

[Check box if applicable]: ORDERED that the following local department of social
services [specify]: _____

and the following attorney for the child(ren)[specify]: _____

shall be notified and shall be made parties to any subsequent proceedings for
modification, enforcement or termination of the Order;

Additional Orders in cases where child(ren) (is)(are) placed with the Commissioner of Social Services or NYC Administration for Children's Services [check applicable box(es)]:

1. Services or assistance:

ORDERED that the Petitioner is directed to provide the following services and assistance,
authorized under the comprehensive annual services program plan currently in effect, to the
following parent(s), caretaker(s) or other parties [specify person(s) and services or assistance]: _____

2. Transitional Services [Applicable to placed child(ren) who will attain the age of 14 years of age or older prior to the next permanency hearing]:

ORDERED that the Petitioner is directed to provide the following services and assistance to the child(ren) to make the transition from foster care to independent living [specify]:
; (and it is further)

3. Out-of-State Placement [Required for children placed out-of-state]:

ORDERED that the placement of the child at [specify]:
 is appropriate, necessary and in the child's best interests and is continued until completion of the next permanency hearing scheduled for a date certain in this order;
 is not appropriate, necessary and in the child's best interests and the child shall, therefore, be returned to New York State to be placed with [specify]:
 discharged to [specify]: ; (and it is further)

4. Progress Reports and Notices [Required where child(ren) placed]:

ORDERED that Petitioner shall make a progress report to the Court, the parties and the child's attorney on the implementation of this order as follows [specify date and/or frequency]:
; (and it is further)
 ORDERED that if the above permanency plan for the above-named child is changed, notice shall be provided to the Court, the parties and the child's attorney forthwith, (and it is further)

5. Planning Conferences [Required where child(ren) placed]:

ORDERED that the parent(s) other person(s) legally responsible for the children(s) care shall be notified of the planning conference(s) to be held and of (his)(her)right to attend such conference(s) with counsel or other person; (and it is further)

6. Visiting Plans [Required where child(ren) placed; check applicable box(es)]:

ORDERED that Petitioner shall provide the parent other person(s) legally responsible for the child(ren)'s care with visits with the child(ren) as follows [describe visiting plan]:

ORDERED that Petitioner shall provide the following sibling(s) [specify]:
with visits with the child as follows [describe visiting plan]:
; (and it is further)

7. REQUIRED where approval of placement in a Qualified Residential Treatment Program (QRTM) is requested [DELETE if inapplicable]: After examination and inquiry into the facts and circumstances [check box if applicable]: and after hearing the proof and testimony offered in relation thereto, it is therefore [Check applicable box(es)]:

ORDERED, that the Petitioner's application for placement of the child in the "Qualified

Residential Treatment Program” is GRANTED, and placement of the child in [specify name of QRTP]:
is hereby approved.

OR

- ORDERED, that the Petitioner’s application for placement of the child in the “Qualified Residential Treatment Program” is DENIED, and on or before [specify date]:
the above-named child shall be [check applicable box and specify]:
- returned or released to the following parent [specify]:
 - returned to or placed with the following legal guardian [specify]:
 - returned to or placed with the following suitable adult/relative [specify]:
 - returned to or placed in the following foster home [specify]:
 - returned to or placed in the following facility providing supports for pre-natal, post-partum and parenting youth: (specify):
 - returned to or placed in the following residential program providing supportive services for youth suspected of being or at risk of becoming sexually exploited, as defined in Social Services Law §447-a (1) [specify]:
 - returned or placed in an available supervised setting, as defined in Social Services Law §371, that is approved and supervised by an authorized agency or the local social services district and that provides a transitional experience for older youth in which such youth may live independently [specify]:

OR

On or before [specify date]: _____, Petitioner shall make such other arrangements for the above-named child’s care and welfare that is in the best interests of the child and in the most effective and least restrictive setting as the facts of the case require as follows [specify]:

**8. Date Certain for Next Permanency Hearing [REQUIRED where child(ren) are placed]:
ORDERED that if the child(ren) remain(s) in foster care , the next permanency hearing shall be held on [specify date certain]:²**

² Specify a date certain not more than six months from the completion of the previous permanency hearing or, if one had not been held, a date not more than eight months from date of removal of the child(ren) from home. No date needs to be set if : (i) the petition is dismissed; or (ii) the child has not been placed outside of the home; or (iii) has been finally discharged from care; or (iv) custody or guardianship was ordered pursuant to Family Court Act Article 6. If the child has been placed and the child has a sibling or half-sibling placed outside of the home, whose permanency hearing is scheduled before this Court, the date certain shall be the same as the date certain for the sibling’s or half-sibling’s permanency hearing, unless the sibling or half-sibling was remanded or placed on a juvenile delinquency or PINS petition or unless he or she has been freed for adoption.

Petitioner shall transmit notice of the hearing and a permanency report no later than 14 days in advance of the above date certain to the parents, other parties, attorneys, the child's attorney and shall also transmit notice of the hearing to former foster parent(s) who have had care of the child(ren) in excess of 12 months, except [specify former foster parents for whom such notice would be contrary to child's best interests; delete if inapplicable]:

; (and it is further)

ORDERED

ENTER

Judge of the Family Court

Dated: _____

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:

Order mailed on [specify date(s) and to whom mailed]: _____

Order received in court on [specify date(s) and to whom given]: _____