

## FAMILY COURT CRIB SHEET.

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**Article 3: Juvenile Delinquency.**

Jurisdiction: excusive original.

Venue: where acts occurred, but can later transfer to Resp's county of residence.

Adjust: up to 2 months, Court can extend another 2.

Petitioner: Presentment Agency = City Corporation Counsel of County Attorney; District Attorney in certain situations.

Respondent: child between 7-16 *when acts occurred* (and currently no older than 18 for delinquency, 20 for Designated Felony).

Free Counsel: for Resp.

Prints: Class A/B Felony if over 11; C/D/E over 13.

Summons: 24 hours.

Warrant: can't serve; would be ineffectual; Resp didn't obey summons; Resp likely to leave jurisdiction; Resp fails to appear during proceedings.

Times: Appearance Ticket Designated Felony = 72 hours (not counting holidays/weekends), non-designated = 14 days. Detain: pre-petition within earlier of next court day/72 hours. Probable cause within 4 days of pre-petition. Initial Appearance within 10 days of filing if no detainer. If detain: initial appearance within earlier of next session/72 hours from filing; probable cause (if no fact-finding will be within 3 days) within earlier of 3 days of initial appearance/4 of filing. Detention fact-finding: A/B/C felony = 14 days, all other offenses = 3; not detained = 60 days. Fact-finding adjournment @ Court/Petr request: detain = 3 days, no detention = 30; Resp's request always = 30. Disposition: detention, no Designated finding = 10 days; all other cases = 50 days; adjournments @ Court/Petr request = 10, @ Resp's = 30.

Discovery: Request for Bill of Particulars within 30 days of initial appearance; respond within 15 days of request. Detention: Demand to produce within 7 days. refusal in 5 or compliance within 7; not detained = 15/15/15. Presentment Agency's pre-trial motions within: detain = 14 days, not = 30. Resp's pre-trial motions within 30 days of 1st appearance. Alibi demand within 15 days, notice in 10, rebuttal witness list in 10.

Hearings: fact-finding = beyond reasonable doubt by competent/relevant/material proof; disposition = finding that Resp needs supervision/confinement/treatment, by preponderance of relevant and material proof.

Disposition: ACD = 6 months. Place = misdemeanor: 12 months, felony = 18, Designated Felony Class A restrictive = 5 years (initial secure = 12 - 18 months; residential facility = 12 months), Designated Felony NON-Class A restrictive = 3 years (initial secure = 6 - 12 months; residential facility = 6 - 12 months). Probation = 2 years (1 more on exceptional circumstances). Conditional Discharge = 1 year. Restitution = \$1,500 if over 10.

#### **Article 4: Support.**

Jurisdiction: exclusive original.

Venue: where Petr/Resp resides or is domiciled (order can be modified where any party resides or is *found*).

Adjust: conference within 15 days of request; can continue for up to 2 months, Court can extend for 60 days.

Petitioner: spouse; parent; relative; guardian; guardian ad litem, committee/conservator, "next friend" of Petr; person acting as parent; charitable/philanthropic organization; Social Services; Office of Mental Health; court-directed entity; any party to divorce.

Respondent: spouse; parent until child over 21; step-parents if child on Public Assistance or Mental Hygiene care.

Free Counsel: no.

Summons: 8 days.

Warrant: can't serve; would be ineffectual; Resp didn't obey summons; Resp likely to leave jurisdiction; Resp on bail/parole fails to appear during proceedings; or Resp endangers Petr. Clerk's certificate expires after 90 days, can be renewed. NYC arrest on NYC warrant taken to Family Court of issuance; all others to Family Court judge in arrest county.

Disposition: Order of Protection/Custody/Visitation. Probation as long as Support/Visitation/Protective order. Order of Support: 1 child = 17%, 2 = 25%, 3 = 29%, 4 = 31%, 5(+) = at least 35%. Undertaking = 3 years.

#### **Article 5: Paternity.**

Jurisdiction: exclusive original.

Venue: where mom/dad reside or are found. From pregnancy; over 21 only on Resp's written paternity or if actually furnished support. After dad's death only if paternity test done before; or acknowledgment in open court or openly and notoriously.

Petitioner: Mom or dad (even minors), or their guardians; person acting as parent, or next closest kin; Public Assistance (withdrawal or dismissal not prejudice other parties); charitable/philanthropic organization.

Respondent: dad.

Free Counsel: for Resp.

Summons/Warrant: same as for Article 4.

Disposition: Order of Filiation.

### **Article 6: Custody.**

*Commitment...*

Jurisdiction: child under 18 and in care of authorized agency; exclusive original for certain causes of action; original concurrent with Surrogates for others.

Venue: Family Court where last foster care proceeding was brought; else none = where parent or child reside, if such unknown: agency's regular business office.

Petitioner: Agency; foster parent or relative; child's Law Guardian or Guardian ad litem *if* Court directs upon agency's failure to timely petition.

Respondent: parent.

Free Counsel: for parent seeking or contesting custody

Summons: 20 days before, pursuant to SCPA citation rules; or single publication in 1 newspaper by CPLR.

Hearings: fact-finding = clear & convincing pre-petition competent/relevant/material proof. Disposition = relevant and material; *may* post-petition.

Disposition: dismissal; commitment; suspended judgment = 1 year (extend 1 more on exceptional circumstances).

*Adoption...*

Jurisdiction: original, concurrent with Surrogates.

*Guardianship...*

Jurisdiction: original over minors, concurrent with Surrogates and County. Rules by SCPA.

Disposition: Letters of Guardianship.

*Custody/Visitation...*

Jurisdiction: same powers as Supreme in addition to its own.

Petitioner: parent, grandparent.

Warrant: same as Article 4, plus also if child's safety endangered by Resp.

Disposition: custody, visitation, probation, order of protection.

### **Article 7, PINS.**

Jurisdiction: exclusive original.

Venue: where acts occurred, but can later transfer to Resp's county of residence.

Petitioner: parent, person legally responsible for; police, special duty peace officer; person suffering injury by Resp, or witness to such incident; agency; Presentment Agency if PINS was substituted for delinquency.

Respondent: child under 18 when acts occurred, and still a minor when petition. Resp must be truant, incorrigible/ungovernable, or possessing marihuana. Resp needs supervision or treatment.

Free Counsel: for Resp.

Summons: 24 hours; if Resp/parent requests = not proceed for at least 3 days.

Warrant: can't serve; would be ineffectual; Resp didn't obey summons; Resp likely to leave jurisdiction; Resp on bail/parole fails to appear during proceedings; failure to appear by Resp released home by police officer on written promise of parent/PLR to bring him/her to court. Warrant expires in 6 months; can be extended on Petr's request for good cause up to another 6.

Times: detain = pre-petition earlier of next court session/72 hours. Probable cause within 3 days, adjourn on special circumstances up to 3 more. Fact-finding: detained = not more than 3 days (adjourn @ Court/Petr request = 3 more, Resp's = "reasonable"). Disposition: detained = 10 days (Court can have 2 such adjournments, Resp/parent = "reasonable"); no detention = 2 months.

Hearings: fact-finding = beyond reasonable doubt by competent/relevant/material proof; disposition = preponderance on relevant and material proof.

Disposition: discharge with warning; suspended judgment or probation = 1 year (can extend 1 more); placement up to 12 months; restitution for 10-16 year old = \$1,000; order of protection.

### **Article 8: Family Offense.**

Jurisdiction: concurrent with Criminal over Family Offenses [Disorderly Conduct (including for these purposes conduct occurring in a non-public place); Harassment 1,2; Aggravated Harassment 2; Stalking 1-4; Menacing 2,3; Reckless Endangerment; Assault 2,3, as well as Attempts thereof]; though Family Court has exclusive where Resp is infant.

Venue: where acts occurred, or family/party resides (including domestic violence shelter).

Adjust: conference within 7 days of request; can continue for up to 2 months, Court can extend for 2 periods of 60 days each.

Petitioner/Respondent: "member of same household" = spouse, former spouse, parent/child, related by blood or marriage, child-in-common.

Free Counsel: for Petr and Resp.

Summons: 24 hours; if Resp requests = not proceed for at least 3 days.

Warrant: can't serve; would be ineffectual; Resp didn't obey summons; Resp likely to leave jurisdiction; or Resp endangers Petr/child. Clerk's certificate expires after 90 days, can be renewed.

Hearings: fact-finding = competent/relevant/material; disposition = relevant/material. NO STATUTORY QUANTUM!

Disposition: Temporary Order of Support; Suspended Judgment = 6 months; Probation = 1 year; Restitution = \$10,000; Order of Protection = 2 years, 5 if aggravated circumstances.

### **Article 10: Neglect/Abuse.**

Jurisdiction: exclusive original.

Venue: where child or custodian presently resides or is domiciled. Child must have been 18 when acts occurred.

Petitioner: Agency, or Court-directed entity.

Respondent: parent and/or person then legally responsible for child.

Free Counsel: for Resp and child; also Petr for Part 8 foster-care visitation petition.

Summons: 24 hours before court date; abuse within 2 days of issuance else report to court in 3 days, out-state abuse = within 10 days of issuance.

Warrant: can't serve; would be ineffectual; Resp didn't obey summons; Resp likely to leave jurisdiction; or Resp endangers child/parent/foster parent/custodian. Warrant must be issued if agency reports to court on 3rd day of abuse case that summons couldn't be served within the first 2 days (not apply for out-State process). If warrant can't be served within 2 days = report to Court on 3rd.

Times: Pre-petition removal = file within 3 days; pre-petition order of protection = vacated if no filing within 10 days. Emergency removal without order = file by next court day. 1028 hearing within 3 days of request (adjourned only for good cause) if no removal hearing was held, or parent not participate/represented. Summons return date within 3 days if child removed; else = 7.

Hearings: fact-finding by competent/relevant/material proof; neglect/abuse = preponderance, severe/repeated abuse = clear & convincing. Disposition: relevant/material.

Disposition: ACD = 1 year. Suspended Judgment or Supervision = 1 year (can extend 1 more). Release: no time (can be in conjunction with Supervision). Order of Protection: same time limit as - and extended along with - other disposition; however PLR not related by blood/marriage and no longer in home = up to child's 18th birthday. Placement: until completion of the next scheduled permanency hearing, date certain specified in order (no more than 8 months from removal, 6 from last permanency hearing).