

## FCA ARTICLE 2: ADMINISTRATION.

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Rules of Family Court are set forth by Administrative Board of Judicial Conference, and shall be uniform statewide insofar as practicable.

Each county shall report to Conference regarding: #s of children remanded Article 10 (neglect), time from removal until return, as well as # of Placements and Extensions; also # of remands/releases under Article 3 (JD & 7 (PINS), and # of subsequent Placements or Probations.

State Administrator shall promulgate adoption form; MAY make other forms as well (petitions, orders, etc...).

Each county has a Clerk of Family Court responsible for the records and Seal. Clerk shall give petition forms to any person so requesting. **IF** Clerk prepares form for pro-se person: **MUST** include all allegations! Clerk shall not prevent any person from filing a petition immediately; all jurisdictional questions must be referred to the Court.

Family Courts are assisted by local Probation Departments and Support Collection Units (SCU). Banks and employers must cooperate with Family Courts regarding support proceedings.

Physically disabled child under 21: NYC DSS or elsewhere Court by OTSC can compel parent to contribute monetarily towards care. Court can make order for such child's education as NYC or other county charge. If such order directs transportation, such county or NYC shall make arrangements to comply within 30 days (NYC may delegate to Education Department).

OCA may contract with Legal Aid Society to provide Law Guardians to represent children in Family Court proceedings; may then terminate arrangement on 60 days notice. Court may also utilize panel attorneys certified for one year periods by local Appellate Division; may designate other lawyers if not enough panel members. Law Guardian fees are State charge.

Unless child has own counsel, LGs are assigned for: JDs, PINS, foster care, where revocation of adoption consent is opposed, or for protective custody of material witness. Court may also assign LG on any other matter, including on own motion. If a LG had previously been assigned, shall be renewed if possible. Upon removal from Criminal Court, child's counsel shall remain, if possible.

Child can waive LG only *after* one has been assigned; following a hearing to rebut the presumption that the child lacks knowledge/maturity, and upon clear & convincing finding that child understands charges/defenses/dispositions. Waiver of LG **must** be in child's "best interests". LG for JD case regarding continuation or extension of

placement CANNOT be waived!

After filing of a petition: Court can order any party - or a parent of child - under its jurisdiction to undergo physical and/or mental exam(s). Exam to be at NYC Department of Health facility, or NYC/County Hospital, or local hospital approved by Department of Social Services; outside NYC may also be Mental Hygiene facility.

Exams are generally out-patient unless an adult shall consent to in-patient OR JD/PINS is determined after fact-finding to need examination. Such remand shall then be for maximum of 30 days, although Court may terminate earlier.

Local Probation Department may utilize volunteers, although NOT for the Chief's position. For custody investigations: Probation entitled to fee of \$50 - \$500 apportioned among parties, separate from any State reimbursement.

Court can require City Corporation Counsel or County Atty to present any petition. Abuse cases MUST have as necessary party either City Corporation Counsel or County District Attorney.

District Attorneys may agree with Corporation Counsel/County Atty to present Designated Felony JD cases; including non-designated charges, or against other Respondents in concert. D.A. may also elect to present any JD case following removal from Criminal Court.

Family Court can require Education official to perform duty of *evaluating* a child for Special Program, but can **NOT** order special education!

Visitation of child in commitment shall be pursuant to State Social Welfare agency or Department of Social Services.

Indigent (no statutory specification therefor!) adults in Family Court proceedings are assigned free counsel paid for by county funds pursuant to Article 18B [Section 722] of the County Law. The following are always entitled to free counsel (if indigent): Resp in Article 10 (neglect) or 10A (foster care) case, and Petr for visitation of foster care child [Article 10, Part 8]; also any parent, foster parent or custodian for minor in foster care or subject of Termination of Parental Rights proceeding; any non-custodial parent or grandparent notified of agency's intent not to incorporate post-adoption visitation plan; any parent opposing adoption; any parent seeking custody generally, and any parent contesting custody; any party subject to punishment for contempt EXCEPT summary!; and any Resp in a Paternity (Article 5) case. Court MAY appoint 18B counsel in any other proceeding.