

NEW YORK STATE  
 DEPARTMENT OF SOCIAL SERVICES  
 40 NORTH PEARL STREET, ALBANY, NEW YORK 12243



ARTHUR Y. WEBB  
 Acting Commissioner

[An Administrative Directive is a written communication to local Social Services Districts providing directions to be followed in the administration of public assistance and care programs.]

**ADMINISTRATIVE DIRECTIVE**

TRANSMITTAL NO.: 82 ADM-70  
 [Services]

TO: Commissioners of Social Services

SUBJECT: Chapter 379 of the Laws of 1982

DATE: November 15, 1982

SUGGESTED DISTRIBUTION: Child Protective Service Staff  
 Legal Staff

CONTACT PERSON: Any questions concerning this release should be directed to Mr. Jamie Greenberg, Office of Policy Planning, Division of Services by calling 1-800-342-3715, extension 4-9591

I. PURPOSE

The purpose of this release is to advise local districts of the provisions of Chapter 379 of the Laws of 1982 which requires that a person removing a child under the authority of Section 1022 or 1024 of the Family Court Act give written notice to the parent or other person legally responsible for the child's care of the right to apply for the child's return pursuant to Section 1028 of the Act. This release serves as the formal transmission of the newly developed written notice which has been prescribed by the Office of Court Administration.

II. BACKGROUND

The attached notice replaces the notification form entitled, "Notification of Temporary Removal and Right to a Prompt Hearing" which was required for use by 81 Adm-34.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous Reference
	81-Adm-34	432.3-m	SSL 417 SSL 422.4 SSL 424.8 FCA 1021 FCA 1022 FCA 1024 FCA 1026 FCA 1027 FCA 1028		

DSS-296 (REV. 8/82)

III. PROGRAM IMPLICATIONS

As was previously the case, all designated Child Protective Service staff (including after-hours staff) will need to carry blank notices in the event that a Section 1022 or 1024 removal becomes necessary. In addition, in districts where societies for the prevention of cruelty to children, law enforcement officials or other peace officers are involved in removing children from their homes under the aforementioned sections, without the actual presence of Child Protective Service staff, they must likewise utilize the notice. The Child Protective Service in those districts should inform such officials of their responsibilities and make available the attached notice.

IV. REQUIRED ACTION

(A) At the time that a child is removed from his/her home under the authority of either Section 1022 or 1024 of the Family Court Act, it is required that the parent, guardian, or person legally responsible for the child be provided with the attached notice. It should be completed as follows:

-The child or children's name(s) should be printed in the space after, "In the Matter of."

-The name(s) of the parent, guardian, or persons legally responsible for the child's care should be printed before "Respondents."

-The names of the parent, guardian, or persons legally responsible should be printed after "To:"

-In the first paragraph, the section of the law not applicable, either 1022 or 1024, should be crossed out.

-The name of the County, the address and telephone number of the Family Court should be printed where appropriate in the paragraph which begins "To do so..."

-At the bottom, the date when the notice is completed should be placed along with the name, address, and telephone number which the district wishes the parent to contact.

-Cross out all words in parentheses which do not apply.

(B) If the child is removed from his/her home and the parent or other person legally responsible for the child's care is not present, it is required by law that the notice be affixed to the door of such residence. However, in that child abuse and neglect reports and related information are subject to strict confidentiality requirements and because such matters are not intended to be made public to neighbors or a passerby, wherever possible the notice shall be affixed to the inside of the door. Where access to inside the home is impossible, the notice should be placed in a sealed envelope with the parents name on it prior to being affixed to the outside of the door.

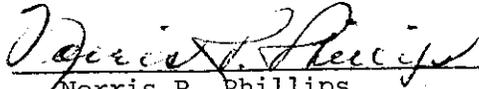
- (C) In instances when the notice is not personally handed to the parent or other person legally responsible for the child's care and left affixed to the door as described above, a copy of the notice shall be mailed to the parent or other person legally responsible for the child's care at his or her last known place of residence within twenty-four hours of the removal. This will necessitate the designated CPS worker having available to them local district stationery which they would utilize in the event of a removal on Friday night or Saturday. The law does not permit flexibility in waiting until the next business day in instances when this will exceed a twenty-four hour period. The caseworker should put a notation in the case record describing when the notice was mailed.

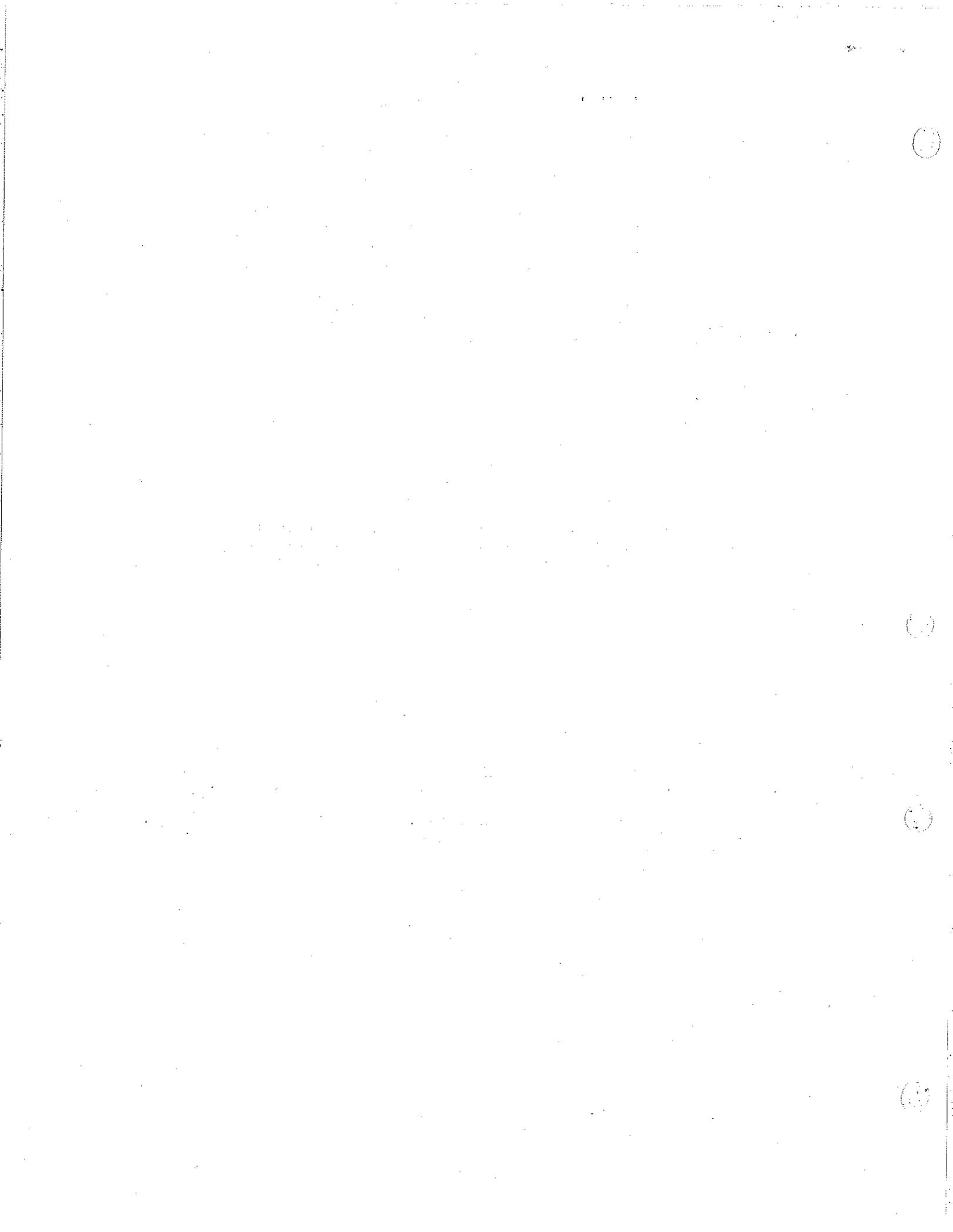
V. EFFECTIVE DATE

Chapter 379 of the Laws of 1982 became effective September 1, 1982 and is attached for your information.

IV. ADDITIONAL INFORMATION

A Spanish version of the notification letter will be made available for districts to utilize in those situations where it is believed that the parents or guardians have a better comprehension of Spanish than English.

  
\_\_\_\_\_  
Norris P. Phillips  
Deputy Commissioner  
Division of Services



FAMILY COURT OF THE STATE OF NEW YORK  
COUNTY OF

.....  
In the Matter of

Docket No.

(A child) (Children) under the Age of  
Eighteen Years Alleged to be (Abused)  
(and) (Neglected) by

NOTICE  
(Temporary Removal of  
Child and Right to  
Hearing)

Respondents  
.....

TO:

PLEASE TAKE NOTICE that the child(ren) named above  
(has) (have) been temporarily removed from (his) (her) (their)  
residence or taken into protective custody, under authority  
of section 1022 1024 of the New York State Family Court  
Act to avoid imminent danger to the child(ren)'s life or health.

YOU HAVE A RIGHT TO ASK THE FAMILY  
COURT FOR THE RETURN OF YOUR CHILD (REN)  
AND MAY HAVE AN EARLY HEARING ON THAT  
REQUEST.

To do so, you must file an application in the Family Court  
County at:

Tel. No.:

You have the right to be represented by a lawyer. If  
you cannot afford a private lawyer, you have the right to ask  
the court to assign a lawyer.

Dated: , 19

Name:

Address:

Tel. No.

(over)

FAMILY COURT ACT

§ 1028. Application to return child temporarily removed.

Upon the application of the parent or other person legally responsible for the care of a child temporarily removed under this part for an order returning the child, the court shall hold a hearing to determine whether the child should be returned (i) if there has not been a hearing on the removal of the child at which the parent or other person legally responsible was present or had an adequate opportunity to be present, or (ii) upon good cause shown. Except for good cause shown, such hearing shall be held within three court days of the application. Upon such hearing, the court shall grant the application, unless it finds:

(a) where a petition has not been filed under section ten hundred thirty-one, that the return presents an imminent risk to the child's life or health; or

(b) where a petition has been filed under section ten hundred thirty-one, that there is a substantial probability that the child will be found to be abused or neglected under this article and that the final order of disposition will be an order of placement under section ten hundred fifty-five or that, pending entry of a final order of disposition, temporary removal is necessary to avoid an imminent risk to the child's life or health.

# STATE OF NEW YORK

7858-A

## IN SENATE

February 2, 1982

Introduced by Sen. GOODHUE--(at request of the Office of Court Administration)--read twice and ordered printed, and when printed to be committed to the Committee on Child Care--committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the family court act, in relation to notice to parents in child protective proceedings

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section ten hundred twenty-two of the family court act is  
2 amended by adding a new subdivision (d) to read as follows:

3 (d) The person removing the child shall, coincident with removal, give  
4 written notice to the parent or other person legally responsible for the  
5 child's care of the right to apply to the family court for the return of  
6 the child pursuant to section one thousand twenty-eight of this act.  
7 Such notice shall be personally served upon the parent or other person  
8 at the residence of the child provided, that if such person is not pre-  
9 sent at the child's residence at the time of removal, a copy of the not-  
10 ice shall be affixed to the door of such residence and a copy shall be  
11 mailed to such person at his or her last known place of residence within  
12 twenty-four hours after the removal of the child. If the place of  
13 removal is not the child's residence, a copy of the notice shall be per-  
14 sonally served upon the parent or person legally responsible for the  
15 child's care forthwith, or affixed to the door of the child's residence  
16 and mailed to the parent or other person legally responsible for the  
17 child's care at his or her last known place of residence within twenty-  
18 four hours after the removal. The form of the notice shall be prescribed  
19 by the chief administrator of the courts.

20 § 2. Paragraph (iii) of subdivision (b) of section ten hundred  
21 twenty-four of such act is renumbered paragraph (iv) and a new paragraph  
22 (iii) is added to read as follows:

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD2-21-22-146A

1 (iii) give, coincident with removal, written notice to the parent or  
2 other person legally responsible for the child's care of the right to  
3 apply to the family court for the return of the child pursuant to sec-  
4 tion one thousand twenty-eight of this act. Such notice shall be per-  
5 sonally served upon the parent or other person at the residence of the  
6 child provided, that if such person is not present at the child's resi-  
7 dence at the time of removal, a copy of the notice shall be affixed to  
8 the door of such residence and a copy shall be mailed to such person at  
9 his or her last known place of residence within twenty-four hours after  
10 the removal of the child. If the place of removal is not the child's  
11 residence, a copy of the notice shall be personally served upon the  
12 parent or person legally responsible for the child's care forthwith, or  
13 affixed to the door of the child's residence and mailed to the parent or  
14 other person legally responsible for the child's care at his or her last  
15 known place of residence within twenty-four hours after the removal. The  
16 form of the notice shall be prescribed by the chief administrator of the  
17 courts.

18 § 3. This act shall take effect on the first day of September next  
19 succeeding the date on which it shall have become a law.