

MODEL VOLUNTARY PLACEMENT AGREEMENT FORM

This model form is provided as guidance to local social services districts in developing their own forms. It contains appropriate language and format following requirements of the Social Services Law and is intended to replace the guidelines form attached to 91 ADM-12.

NOTICE

o By signing this agreement, you will voluntarily transfer the care and custody of your child to the Commissioner of Social Services. You do not have to sign the agreement and you will not be subject to any legal penalties if you do not sign it.

o You have the right to talk to a lawyer of your own choosing before signing this agreement. If you cannot afford a lawyer, you have the right to obtain from the Commissioner a list of lawyers or organizations which may provide free legal services.

Name of Person Signing Agreement

Address

Mother

Number and Street

Apt.

Zip

Father*

Number and Street

Apt.

Zip

Guardian**

Number and Street

Apt

Zip

Child(ren)

Name_____

_____.
(date of birth)

Name_____

_____.
(date of birth)

Name_____

_____.
(date of birth)

* If child is born out-of-wedlock, attach acknowledgment of paternity form; or indicate the date and court where paternity was established: Date_____ Court_____.

** If signing as legal guardian, specify the date and court where guardianship was obtained: Date_____ Court_____.

TERMS OF PLACEMENT

I grant permission to the Commissioner of Social Services to place my child in a foster care setting that is determined to be suitable for my child's care. I understand that I am expected to work cooperatively towards planning for the future of my child, and that the agency will offer whatever help is available to enable me to decide what is best for my child. I understand that it is both my right and responsibility to plan with the agency for my child's return home, or to actively participate in making alternate plans so that the child can have the benefit of another home.

_____ Indefinite Placement

I am placing my child with the Commissioner for an indefinite period of time. When I want my child discharged from foster care, I will make a request in writing to the Commissioner with custody of my child.

The Commissioner will return my child to me within twenty (20) days after receiving my request unless a court order exists that would not allow the return of my child, or a court order is obtained to prevent the return.

A court order may be obtained by the Commissioner in any of the following court proceedings: (1) a custody proceeding; (2) A child protective proceeding; (3) A proceeding to terminate parental rights; or (4) a permanency hearing that directed continued care.

_____ Limited Placement

I want my child to be placed with the Commissioner until _____ (Date) or until the following event takes place:

My child will be returned by the above date or event specified unless a court order is obtained to prevent the return before the above date or event, or within 10 days after the date or event.

If I am unable to receive my child, or I am unavailable or incapacitated, I consent to extend the time my child remains in care. I will notify the Commissioner when I am able to accept my child. My child must then be returned to me within ten (10) days after the receipt of my request unless a court order against the return is obtained within ten (10) days of my request.

I may request in writing to the Commissioner the return of my child before the above date or event. The Commissioner must return my child or notify me within ten (10) days of my request if the request is denied. If the Commissioner does not act upon my request, I have the right to seek the immediate return of my child in either Family Court or State Supreme Court.

RESPONSIBILITIES OF PARENTS

As the parent(s)/guardian of my child, I agree to:

- (1) Plan for the future of my child;
- (2) Meet and consult with agency staff in developing and carrying out the best plan for my child and me;
- (3) Visit with my child;
- (4) Keep the foster care agency informed of any changes in my name or my address; and
- (5) Contribute, if I am financially able, toward the cost of my child's foster care.

I understand that failure to meet these responsibilities listed above could be a basis for court proceedings to terminate my parental rights and free my child for adoption. I understand that if my child remains in care for fifteen of the most recent twenty-two months, the agency may be required to file a petition to terminate parental rights. I understand that if my rights are terminated, my consent would no longer be needed for my child to be adopted.

The amount of money I will be able to contribute each week ____ (or month ____) while my child remains in the care and custody of the Commissioner is ____ .
(Complete by writing an amount, or "none," or "unknown.")

RESPONSIBILITIES OF THE COMMISSIONER

I understand that the Commissioner of Social Services, in accordance with the plan for supportive services, and to the extent to which services are available and my eligibility for services is established, agrees to:

- (1) provide care, supervision, room, board, clothing, medical care, dental care, and education for my child;
- (2) inform me of the name, address and telephone number of the foster care agency, home or facility where my child is placed;
- (3) clearly inform me of what is expected of me before my child will be returned home and to work with me to develop and carry out a service plan for my child and me, including those supportive services needed so that my child can return home;
- (4) provide help, if needed, for any children who remain in my home;
- (5) help me make arrangements to visit my child;
- (6) hear and take appropriate action upon complaints I may have about care and services provided to my child and me.

SUPPORTIVE SERVICES

I have been advised of my right to have supportive services provided, including preventive and other supportive services, while my child remains in foster care. I understand that such supportive services should be provided so that my child can be returned to my home.

I further understand that it is my responsibility to plan for and to cooperate with the provision of such supportive services. Should I fail to cooperate and my child cannot be returned to my home in accordance with the plan for services, a court action to terminate my parental rights might be brought.

I understand that the supportive services will not be discontinued while my child remains in placement unless I agree to this in writing. There are three exceptions to this rule: (1) if the continued provision of supportive services would be contrary to a court order entered in a proceeding of which I was notified; (2) if I do not keep the agency informed of my whereabouts; or (3) if I refuse to communicate with the agency or I refuse to accept the supportive services offered.

VISITING

I have been advised of my right to visit with my child in foster care and of the importance of visiting regularly. I have the right to determine, jointly with the agency, the terms and frequency of visitation. I agree to cooperate with the agency in establishing appropriate visiting periods. I understand that at times it may be necessary to change visiting schedules due to changes in my circumstances or because of circumstances where my child is placed.

Any court orders concerning the right of visitation to my child remain in effect and are noted here or attached to this document as required by law.

Noted: _____

Attached

No one may stop or limit my visits without approval from a court proceeding. I understand that I would be notified of such a proceeding and may appear at the proceeding.

HEALTH AND MEDICAL CARE

As the parent(s) guardian of my child:

- (1) I understand that the Commissioner or a designated representative will keep me informed of my child's progress, development and health status (other than routine health care);
- (2) I agree to periodic medical examinations for my child and to the administration of any immunizations, tests, and treatments, including dental treatments, that are considered necessary for the well-being of my child **EXCEPT**:
 - (a) surgery,
 - (b) testing for HIV infection or AIDS, or
 - (c) entering my child in experimental medical research programs (clinical trials).

I understand that I will be consulted and my written consent sought whenever surgery is considered necessary.

I understand that my written consent must be obtained before my child is tested for HIV infection UNLESS my child has capacity to give consent to such testing or I lose guardianship of my child or the Commissioner takes custody of my child as an abused or neglected child.

I understand that my written consent must be obtained before my child is entered into an experimental medical research program (clinical trial) UNLESS my child reaches age 18 or I lose guardianship of my child.

- (3) In the event that my child requires emergency surgery, I authorize the Commissioner of Social Services or a designated representative to consent to such emergency surgery if I am unavailable or cannot be reached for consultation. Notice of such action will be given to me as soon as possible. I also agree that whenever an emergency arises requiring immediate medical and/or surgical care, and in the treating physician's judgment an emergency exists, and that any delay caused by an attempt to secure consent for treatment would endanger my child's life or health, necessary care may be provided immediately and notice to be will be given as soon as possible; and
- (4) I understand that when my consent to a medical procedure is requested, and if the Commissioner or a designated representative believes that my failure to give such consent would endanger the life, health or safety of my child, a child protective proceeding may be initiated in order to obtain court authorization for the medical procedure.

COURT HEARINGS

- (1) According to the provisions of section 358-a of the Social Services Law, if a social services official believes my child is likely to remain in care more than thirty days, a proceeding will be filed in the Family Court to obtain a court review of this Agreement. According to the provisions of section 392 of the Social Services Law, a permanency hearing will be held before the end of the first twelve (12) months in foster care and at least every twelve (12) months thereafter. I will receive notice of these hearings and have an opportunity to be present. At the hearing the court has the authority to order the Commissioner of Social Services to carry out a specific plan of action to exercise diligent efforts toward the discharge of my child from foster care, either to the child's own family or to an adoptive home. The court also retains continuing jurisdiction for certain purposes, and may review the case at the request of any of the parties involved, including the parent(s) or legal guardian.

- (2) My failure to maintain parental responsibilities may lead to action and termination of parental rights. Under the Social Services Law of the State of New York, my failure to visit and communicate with a child for six successive months without good reasons may be considered abandonment. Under the Social Services Law and the Family Court Act of the State of New York, my failure to substantially and continuously or repeatedly maintain contact with or plan for the future of the child, although physically and financially able to do so, for a period of more than one year following the date the child came into foster care, may be considered permanent neglect if the agency has made diligent efforts to encourage and strengthen my relationship with my child when such efforts are not contrary to the best interests of the child.

RIGHT TO A FAIR HEARING

I understand that I have the right to request a State Fair Hearing if I disagree with decisions concerning services for myself or my child such as:

- o Supportive services are denied, reduced, or discontinued;

- o Supportive services arranged are not appropriate for my situation or
- o I have been denied the right to visit with my child.

I may request a fair hearing:

(1) By writing to the Office of Administrative Hearings of the Office of Temporary and Disability Assistance, P.O. Box 1930, Albany, NY 12201; or

2)By calling _____

If you receive a notice denying, discontinuing or reducing a service, you must request your hearing within 60 days of the date of such notice.

SIGNATURES

I understand that I have the right to consult with an attorney prior to signing this Agreement or at any other time, as outlined in the **Notice** on the first page of the Agreement.

I understand that none of the above provisions may be changed without my consent or that of an individual acting in my behalf with my consent, **and** the consent of the Commissioner of Social Services or designated representative. If any such provision is to be changed, it will be indicated in writing in a supplemental instrument which will be acknowledged and signed in the same manner as this Agreement, and will be attached and become part of this original Agreement.

I have read and I understand this Agreement which will be in effect during the time that my child is in foster care placement. I have received a copy of this agreement.

Signature of Parent or Guardian

Signature of Second Parent

Date_____

Signed in the presence of:

Title:_____