

Attachment 2

NOTICE OF DENIAL OF RECERTIFICATION OR REAPPROVAL OF FOSTER PARENT BASED ON
FELONY CONVICTION OF MANDATORY DISQUALIFYING CRIME

Date:
Re:
Name:
DOB:
NYSID No:

Agency ID:

Dear Sir/Madam:

Your request to be recertified or reapproved as a foster parent, has been denied pursuant to Social Services Law, Section 378-a. Pursuant to this law, the New York State Division of Criminal Justice Services (DCJS) has advised us that the above named person was convicted of a crime as indicated below:

() a felony conviction involving:

- () child abuse or neglect;
- () spousal abuse;
- () a crime against a child, including child pornography; or
- () a crime involving violence, including rape, sexual assault, or homicide, other than a crime involving physical assault or battery.

() a felony conviction within the past five years for physical assault, battery, or a drug-related offense.

Except as set forth below, as a result of this denial your status as a foster parent will terminate effective twenty (20) days from receipt of this notice.

You may wish to consult with private legal counsel to discuss potential options to continue as the caretaker of the child(ren) boarded with you as a foster child(ren). Such options may include seeking Family Court or Surrogate's Court authorization to:

- assume legal custody of the child pursuant to Article 6 of the Family Court Act;
- assume legal guardianship pursuant to Article 6 of the Family Court Act or Article 17 of the Surrogate's Court Procedure Act; or
- assume legal custody pursuant to section 353.3(1), 756(a) or 1055(a) of the Family Court Act.

If you inform the authorized agency that you do not intend to petition the court as noted above or if you fail to petition the court within the time period set forth in this letter, the foster child(ren) will be removed from your home and your certification or approval as a foster parent will terminate.

If you petition the Family Court or the Surrogate's Court for direct custody or guardianship under one of the options noted above within thirty (30) days of the receipt of this notice, the foster child(ren) will not be removed from your home as long as the authorized agency assesses that the foster child(ren) are safe. The foster child(ren) may remain in your home pending the court's determination on your petition, as long as the authorized agency continues to assesses that the foster child(ren) are safe and that such placement is consistent with the clinical and program needs and permanency plan of the foster child(ren). While the petition is pending, you must continue to cooperate with the authorized agency in regard to the assessment of safety and the meeting of the clinical and program needs of the foster child(ren). You also must cooperate with the court and act diligently in pursuing temporary or permanent custody or guardianship of the foster child(ren). You must advise the authorized agency as soon as you are informed that the court has either granted or denied your petition. Finally, if the court does not grant you temporary or permanent custody or guardianship of the foster child(ren) within a reasonable time from the filing of your petition, the foster child(ren) will be removed from your home and your certification or approval will terminate.

ADMINISTRATIVE REMEDIES

A. Denial/Removal

If your denial is based upon spousal abuse, and you believe that such offense was not spousal abuse because the fact that you were abused was a factor in causing you to commit the crime, you may request an administrative hearing from the Office of Children and Family Services by contacting in writing:

Bureau of Special Hearings
NYS Office of Children and Family Services
PO Box 1930
Albany, New York 12201

Such request must be made within 60 days of the receipt of this notice.

Similarly, if a foster child is to be removed or is removed from your home because of a criminal history (and any additional reasons), you have a right to a conference with the authorized agency responsible for such removal in accordance with the provisions of 18 NYCRR 443.5. If you are not successful at the conference, you may request an administrative hearing before the Office in accordance with Section 400 of the Social Services Law. Your request for an administrative hearing will not result in the delay in the removal of any foster child(ren) from your home.

B. Accuracy of Criminal History Data

If you want to conduct a DCJS Record Review, you should call the Record Review Unit or write to the address listed below to request the necessary forms. All record reviews are conducted via mail.

NYS Division of Criminal Justice Services
Criminal History Bureau
Record Review Unit - 5th Floor
4 Tower Place
Albany, New York 12203
Phone: (518) 485 - 7675

If you conduct a Record Review through DCJS and you believe that there are errors on your criminal history record which you seek to challenge, you must provide DCJS with the following documentation:

Arrest Data

To modify arrest data (i.e. arrest charges, date of arrest, date of crime) on your Criminal History Record, YOU must contact the arresting agency. DCJS REQUIRES WRITTEN notification from the ARRESTING AGENCY to correct this information.

Disposition Data

To correct disposition data or to update missing disposition data, YOU must contact the court of adjudication and request a CERTIFIED copy of the disposition. Once you have obtained the certified court document, you must forward it to the DCJS Record Review Unit which will review it and update your Criminal History Record. Be advised photostatic copies are NOT acceptable unless they contain an embossed (raised design) seal from the issuing court.