

# Legal Status of a Child During a Child Protective Proceeding

Gene Skarin. June 11, 2025

## PRELIMINARY ORDERS After Article 10 petition filed

**Release to one or both respondents** under supervision. ("parole to") FCA 1027 (d)

**Temporarily Release or Temp Art 6 Custody to Non-respondent parent-** (On February 5, 2025, the AD2d decided it may NOT place a Non-Respondent custodial parent under COS and direct the parent to cooperate with ACS in various ways, where the respondent parent resides elsewhere and the child has not been removed from the non- respondent's home.) This is also the position of NY OCFS.

**Direct Placement** (Temporarily Place) with a relative or suitable person if no suitable Non-Respondent Parent. Caretaker must consent to court's jurisdiction and will likely include supervision.

**Temporary Art 6 custody/guardianship** to a relative or suitable person with or w/o supervision. They must file an Article 6 case for this to happen. FCA 1017.2 (a)(i)/1027

**REMAND OR PLACE to DSS/ACS** for foster care

- Kinship Foster care (preferred)
- non kinship Foster Care
- to reside with specified certified foster parent(s)
- Other

(Note: A case **Adjourned in Contemplation of Dismissal** is technically not a disposition but is similar with ordered Terms and Conditions. Child should be with respondent, otherwise makes no sense) If no violation, case dismissed at end of period. If a violation proven, case should revert to pre fact finding stage.

## FINAL ORDERS at Disposition (ONLY possible if court enters a Fact Finding order after a trial or an admission or consent finding)

**Release to respondent(s)** under FCA 1057 with supervision w/ terms and conditions for one year. Can couple with an Order of Protection(1 yr family member, longer if not family member)

**Release to non respondent** for up to one year (FCA 1054) May "require" NR parent to submit to jurisdiction. (On February 5, 2025, the App Div 2d Dept decided it may NOT place a Non-Respondent custodial parent under COS and direct the parent to cooperate with ACS in various ways where the respondent parent resides elsewhere and the child has not been removed from the non- respondent's home. While this decision only dealt with a preliminary order, logically it would apply to a dispositional order after a fact finding. (Sapphire W)

**Suspended judgment Up to a year renewable once**  
Terms and conditions similar to release to respondent. If no violation, case dismissed and underlying SCR report unfounded

**Direct "Placement"** to a relative or suitable person until end of next permanency hearing (FCA 1017/ 1055) Must consent to jurisdiction--- May include supervision. Child welfare agency remains involved engaging in permanency planning including filing permanency reports.

**Final Article 6 and 1055 b custody or guardianship to respondent Parent, Non Respondent Parent or Suitable Person** based upon filed Art 6 which ends the court's jurisdiction on the Article 10 case. No Supervision authorized!

-(If Kinship Foster Parents for six months, Subsidized Guardianship possible if agency agrees, Court may couple disposition with a permanency hearing. Court can order future notices to DSS and AFC if status change sought. (The "loaded" Article six)

**PLACEMENT with DSS/ACS for foster care** until end of next permanency hearing (FCA 1017 and 1055)

- Kinship Foster care or
- non kinship Foster Care
- court order to reside with specified a certified foster parent(s)

**Note: court can issue more than one dispositional order**

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