

<u>CPS REMOVALS</u>	<u>NOTICES</u>	<u>TIME BY WHICH ARTICLE TEN PETITION SHOULD BE FILED</u>
Consent Removal in writing (FCA§ 1021) (Priority #1)	FCA§1023/1028) (OCA Form 10-1a)	Unless the child is sooner returned, file within 3 court days (must attach the consent to the court petition)
<u>Post-Petition Removal Order</u> (FCA §1027) Court finds child in “imminent danger.” Rules on Reasonable efforts, return contrary to best interests, and Order of Protection insufficient to keep child safe in the home. (Priority # 2)	<u>pre court</u> FCA §1023 <u>after court</u> Summons and Petition ** if the child not previously removed	Petition already filed. However, CPS should give the parents notice under § 1023 if they did not previously remove the child and will be asking for a court remand upon the filing of the petition. Summons would be returnable in 3 court days. **If the respondent appears at the filing of the petition, they will get the petition at such “initial appearance
<u>Pre-Petition Removal Order</u> (FCA §1022) Court finds child in “imminent danger.” (Priority. #3)	<u>pre court</u> FCA §1023* <u>after court</u> FCA§1023/1028 (OCA Form 10-1)	Within 3 court days of the Removal Order
Emergency Removal FCA§1024, SSL § 417. 1(a)) Imminent Danger assessed by CPS or Police (Priority. #4)	FCA§1023/1028) (OCA Form 10-1a)	Next court day (unless 3 court day FCA §1026(c) extension granted by the court). CPS responsibility to file in court if appropriate the next court day even if removal being done by police
Hospital Hold (SSL § 417. 2) “Imminent danger” assessed by Hospital and then CPS. Physicians hold SSL §417.1(b)	FCA §1023/1028 when CPS becomes involved (OCA Form 10-1a)	Next court day (Unless 3 court day FCA § 1026(c) extension granted by the court): (please note: whenever there is a “hospital hold”, CPS shall commence and Article Ten proceeding on the next court day or recommend that the child be returned—this law which seeks a court review is rarely, if ever, followed) (SSL§ 417(b)2.)
<u>ACCESS ORDER TO PRODUCE CHILD</u> Upon application, Court finds that the life or health of child endangered. (CPS executes accompanied by police) (FCA §1034.2)	Must give written or oral notice that CPS could seek court order <i>ex parte</i> and may notify law enforcement. SSL §424.5.	The court can order the child to be produced at a specified location if they find reasonable cause to believe child’s life or health is endangered. Available 24/7. Must consult with supervisor and, if needed, legal as per NYCRR regulations. Give report to court within 3 days if no petition is filed.
<u>ACCESS ORDER to Enter A PREMISES</u> (CPS executes accompanied by police) Court finds “probable cause” that abused, or neglected child may be found on the premises (FCA §1034 (2))	Must give written or oral notice that CPS could seek court order <i>ex parte</i> and notify law enforcement to remain there while order sought. SSL §424.5.	Available 24/7. Must consult with supervisor and, if needed, legal as per NYCRR regulations. Whether or not a petition has been filed, the court may upon a finding of “probable cause that an abused or neglected child may be found on premises” authorize the person conducting the child protective investigation to enter a premises accompanied by police. Give report to court within 3 days if no petition filed.

#NOTE: Whenever a child is taken into protective custody and the parent is not present, the CPS shall affix notice to residence, mail a copy to address and inform the local police station and provide them with a copy of the “1028 notice” to be given to the parent if they show up and request it. (SSL §417.3). Priority is (1) **Consent removal FCA § 1021**; (2) **post-Petition FCA § 1027** Removal/or Remand Order, (3) **Pre-Petition FCA § 1022** if not enough time to file a petition and no consent; (4) **Emergency Removal** without Court Order **FCA§ 1024** if not enough time to file petition (§1027) or pre-petition application. (§1022) The priorities are consistent with the statutes and reiterated by the Tenenbaum and Nicholson cases.

Please note that police/law enforcement/officials/peace officers with special duties all have same removal powers as CPS.

Gene D. Skarin: Updated July 8, 2025