

[NOTE: This form should be used only for appointment of guardians in conjunction with the NYS Subsidized Kinship Guardian Program or Permanent Guardians]

At a term of the Family Court of the State of New York,
held in and for the County of _____,
at _____ New York, on _____,

P R E S E N T:

Hon. _____
Judge

Proceedings for the Appointment of a
 Kinship Guardian (Subsidized Kinship Guardian Program)
 Permanent Guardian

Docket No. _____
Family File No. _____

of _____

ORDER APPOINTING

**Kinship
Guardian**
(Subsidized Kinship Guardian Program)
 Permanent Guardian

_____ a Person Under the Age of 21

Upon reading and filing the petition, duly verified on _____,
, applying for the appointment of [specify names of Petitioner(s)]:
as kinship guardian(s) of the above-named person under the age of 21 in conjunction with the
Subsidized Kinship Guardian Program and/or permanent guardian(s) of the above-named person
under the age of 21;

[Check applicable box(es)]:

And where the subject of the petition is 18 years of age or older, he/she having consented to
the appointment of the guardian;

And where the subject of the petition is over 14 but less than 18 years of age, the child
having been consulted and having [check one]:

- expressed a preference for the appointment of the guardian;
- expressed no preference;
- opposed the appointment of the guardian;

And this Court having determined that the best interests of the subject of the petition will be
promoted by the appointment of a [check one or both boxes]: kinship guardian(s) of the above-
named person under the age of 21, who has been deemed by the following social services district
[specify]:
to be eligible for the Subsidized Kinship Guardian Program, and/or permanent guardian of the
above-named person under the age of 21, and that [specify guardian(s)]:
is/are in all respects competent to act as guardian(s) and to raise the above-named person to adulthood;

[Applicable to cases where the hearing was held jointly with the child protective dispositional or

permanency hearing, pursuant to F.C.A. §§1055-b or 1089-a; delete if inapplicable]:

And this Court, having convened the hearing on this petition jointly with the dispositional or permanency hearing, finds that:

1. Termination of the order placing or remanding the child(ren) pursuant to Article 10 or 10-A of the Family Court Act will will not jeopardize the child(ren)'s safety and is is not in the best interests of the child(ren); and

2. The child(ren)'s birth mother has has not consented to the award of guardianship to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek guardianship of the child(ren) [specify]:

3. The child's legally established birth father has has not consented to the award of guardianship to the Petitioner. If not, the following extraordinary circumstances support Petitioner's standing to seek guardianship of the child(ren) [specify]:

[Applicable to all applications for appointment of a guardian in conjunction with the Subsidized Kinship Guardian program]:

And this Court, having determined that it would would not be in the best interests of the above-named child for Petitioner to be appointed as a kinship guardian in conjunction with the Subsidized Kinship Guardian Program, finds that [check all applicable boxes]:

1. In related proceedings regarding the above-named child [check applicable box]:

[Applicable to related child protective proceedings]: Fact-finding and permanency hearing have been completed pursuant to Family Court Act §§1051 and 1089;

[Applicable to voluntary foster care, juvenile delinquency, PINS and freed-child proceedings]: A permanency hearing has been completed pursuant to Family Court Act §§355.5, 756-a or 1089; and

2. a. Petitioner(s) [check applicable box]:

is/are related to the child through blood, marriage, or adoption;

is/are related to the child's half-sibling;

have a positive relationship to the child; and

b. Petitioner(s) has/have been caring for the child as fully certified or approved foster parent(s) for at least six consecutive months prior to applying to the local social services district for kinship guardianship assistance payments; and

3. The local social services district has determined that Petitioner(s) is/are eligible to serve as a kinship guardian under the Subsidized Kinship Guardian Program and has signed an agreement with the Petitioner to provide kinship guardianship assistance payments for the child to the Petitioner under title ten of article six of the social services law; and.

4 Referral for legal guardianship by the Petitioner(s) is/are an appropriate permanency goal for the child in light of the child's strong attachment to the Petitioner(s) and Petitioner(s)'s strong commitment to permanently caring for the child; and.

5. The following compelling reasons exist for determining that neither return home nor adoption of the child are in the best interests of the child and are, therefore, not appropriate permanency options for the child [specify]:

[Required in ALL cases; check applicable boxes and attach General Form GF-32, if applicable]:

And the Court having inquired as to whether the child may be a Native-American child who may be subject to the *Indian Child Welfare Act of 1978* [25 U.S.C. 1901-1963], subject to the ultimate determination by the tribe or nation, the Court has determined the following:

A. the Court has reason to believe that the child may be subject to the *Indian Child Welfare Act of 1978* [25 U.S.C. 1901-1963], subject to the ultimate determination by the tribe or nation;

And the following having been duly notified [check applicable box(es)]:

parent/custodian tribe/nation [REQUIRED]

United States Secretary of the Interior [REQUIRED if tribal contact undetermined];

And the tribe/nation having: appeared and participated as a party;

appeared and declined to assume jurisdiction;

appeared and requested transfer of jurisdiction, which was granted denied;

not appeared;

And the required findings of fact and conclusions of law having been made pursuant to the *Indian Child Welfare Act* and **General Form GF-32** having been attached in an Addendum to this Order. **OR**

B. the Court does not have reason to believe that the child may be subject to the *Indian Child Welfare Act of 1978* [25 U.S.C. 1901-1963].

6. It would be in the best interests of the child for following adult [specify] , who is 18 years of age or older, to be designated as the successor guardian to take effect when and if a the successor files a petition for guardianship that is granted in the event of the death or incapacity of the Petitioner(s).

IT IS HEREBY ORDERED that [specify guardian(s)]: , upon taking the official oath and filing the designation as required by law, is/are appointed [check applicable box(es)]:

kinship guardian (Subsidized Kinship Guardian Program)

permanent guardian

of [specify name of subject of the petition]: upon the following terms and conditions [specify]:

and that Letters of Guardianship shall issue to the Guardian(s) accordingly; and it is further

ORDERED that, unless terminated by the Court, the appointment shall last until the subject's [check applicable box]:

18th birthday, unless the subject consents upon reaching the age of 18 to the extension of the appointment until his or her 21st birthday;

OR

21st birthday, since the subject is over 18 and has consented to the appointment until he/she reaches the age of 21;¹

¹ If Petitioner is appointed as a kinship guardian, payments under the subsidized kinship guardian program may

[OPTIONAL where kinship guardianship under the Subsidized Kinship Guardian program is ordered; Check box if applicable]:

ORDERED that the following adult [specify] _____, who is 18 years of age or older, is designated as the successor guardian to take effect when and if the successor guardian files a petition for, and is granted, guardianship in the event of the death or incapacity of the Petitioner.

[REQUIRED in all cases in which kinship guardianship under the Subsidized Kinship Guardian program is ordered; delete if inapplicable]:

ORDERED that the following local department of social services [specify]: _____ and the following attorney for the child [specify]: _____ shall receive notice of, and be made parties to, any such subsequent proceedings regarding custody or guardianship of the child.

[Applicable to all cases where hearing was held jointly with child protective dispositional or permanency hearing, pursuant to F.C.A. §§1055-b or 1089-a; delete if inapplicable]:

ORDERED that the local department of social services [specify]: _____ and the following attorney for the child(ren)[specify]: _____ shall be notified and shall be made parties to any subsequent proceedings for modification, enforcement or termination of the Order;

AND IT IS FURTHER ORDERED that [specify]: _____

ENTER

Judge of the Family Court

Dated: _____, _____.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OR ELECTRONIC TRANSMISSION OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check applicable box:

Order mailed, emailed or electronically transmitted on [specify date(s) and to whom sent]: _____

Order received in court on [specify date(s) and to whom sent]: given]: _____

continue until the child is 21 only if the social services district determines that the child is: (i) completing secondary education or a program leading to an equivalent credential; (ii) enrolled in an institution which provides post-secondary or vocational education; (iii) employed for at least eighty hours per month; (iv) participating in a program or activity designed to promote, or remove barriers to, employment; or (v) incapable of any of such activities due to a medical condition, which incapability is supported by regularly updated information in the case plan of the child.