

F.C.A. §§ 413, 418, 440, 532,
536, 542, 545, 571; Art.5-B

Form 5-8
(Order of Filiation and
Support)
1/2001

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

PRESENT Hon. _____
Judge/Hearing Examiner

.....
In the Matter of a Paternity Proceeding

Docket No. _____

Social Services, Assignee,
on behalf of _____, Assignor)

(Commissioner of

ORDER OF
FILIAION AND
SUPPORT

S.S.# (Assignor) _____
Petitioner,

-against-

Respondent

S.S.# _____
.....

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY RESULT IN
INCARCERATION FOR CRIMINAL NON-SUPPORT OR CONTEMPT;
SUSPENSION OF YOUR DRIVER'S LICENSE, STATE-ISSUED
PROFESSIONAL, TRADE, BUSINESS AND OCCUPATIONAL LICENSES AND
RECREATIONAL AND SPORTING LICENSES AND PERMITS; AND
IMPOSITION OF REAL OR PERSONAL PROPERTY LIENS.

IF THIS ORDER IS ENTERED BY A JUDGE, 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, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE LAW
GUARDIAN UPON THE APPELLANT, OR 35 DAYS FROM THE DATE OF
MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT,
WHICHEVER IS EARLIEST.

IF THIS ORDER IS ENTERED BY A HEARING EXAMINER, SPECIFIC
WRITTEN OBJECTIONS TO THIS ORDER MAY BE FILED WITH THIS COURT
WITHIN 30 DAYS OF THE DATE THE ORDER WAS RECEIVED IN COURT OR
BY PERSONAL SERVICE, OR IF THE ORDER WAS RECEIVED BY MAIL,
WITHIN 35 DAYS OF THE MAILING OF THE ORDER.

The above-named Petitioner having filed a petition, sworn to _____, _____,

alleging that the above-named (Petitioner) (Respondent) is the father of a (male)(female) child (born) (about to be born) out of wedlock to on , , (and that the mother and/or child is or is likely to become a public charge); and

The Respondent having (appeared) (been brought) before this Court to show cause why a declaration of paternity, order of support and other relief prayed for in the petition should not be made; and the Respondent having denied (admitted) the allegations of the petition; and

The matter having duly come on to be heard before this Court;

NOW, after examination and inquiry into the facts and circumstances of the case and after hearing the proofs and testimony offered in relation thereto, it is

ADJUDGED and DECLARED that the above-named (Petitioner) (Respondent) is the father of the child; and the Court finds that:

The basic child support obligation for support of the following child(ren) is \$_____ per _____.

NAME DATE OF BIRTH SOCIAL SECURITY #

The mother is the (custodial) (non-custodial) parent, whose pro rata share of the basic child support obligation is ;

The father is the (custodial) (non-custodial) parent, whose pro rata share of the basic child obligation is ;

And the Court finds further that:

(The non-custodial parent's pro rata share of the basic child support obligation is neither unjust nor inappropriate;)¹

Upon consideration of the following factors specified in Family Court Act Section 413(1)(f): _____

_____;)
the non-custodial parent's pro rata share of the basic child support obligation is (unjust) (inappropriate) in that:²

(The parties have voluntarily stipulated to child support for the child(ren)

¹This paragraph is to be used if the basic child support obligation is applied without deviation. Delete if inapplicable.

²This paragraph is to be used only if the court's order deviates from the basic child support obligation, pursuant to F.C.A. Section 413(1)(g). Delete if inapplicable.

[names] _____

payable by _____ in the amount of \$ _____ per _____, such stipulation having been entered into the record and reciting, in compliance with Section 413(1)(h) of the Family Court Act, that:³

The parties have been advised of the provisions of Section 413(1) of the Family Court Act;

The unrepresented party, if any, has received a copy of the child support standards chart promulgated by the Commissioner of the N.Y.S. Office of Temporary and Disability Assistance pursuant to Section 111-i of the Social Services Law:

The basic child support obligation as defined in Family Court Act Section 413(1) presumptively results in the correct amount of child support to be awarded;

The basic child support obligation in this case is \$ _____ per _____ ; and

The parties' reason(s) for agreeing to child support in an amount different from the basic child support obligation (is) (are):

And the court having found the parties' agreement to deviate from the basic child support obligation is approved for the following reasons: [See Family Court Act Section 413(1)(f)]

;

The name, address and telephone number of Respondent's current employer(s) are:

<u>NAME</u>	<u>ADDRESS</u>	<u>TELEPHONE</u>
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NOW, therefore, it is

ORDERED that the above-named (Petitioner)(Respondent), upon notice of this order, pay or cause to be paid to _____ (as Trustee) (IV-D cases: Support Collection Unit) (Non-IV-D cases: N.Y.S. Office of Temporary and Disability Assistance),⁴ the sum of \$ _____ (bi-)(weekly)(semi-(monthly))(quarterly) commencing _____, _____, for and toward the support and education of the child until the child reaches _____

³This paragraph is to be used only if the court's order is based upon a stipulation pursuant to subdivision (1)(h) of Section 413 of the Family Court Act. Delete if inapplicable.

⁴Non-IV-D cases only: payments must be remitted to: N.Y.S. Office of Temporary and Disability Assistance, P.O. Box 15365, Albany, New York 12260

the age of twenty-one years; and it is further

(ORDERED that the (Petitioner)(Respondent) pay or cause to be paid to (as Trustee) (IV-D cases: Support Collection Unit) (Non-IV-D cases: NYS Office of Temporary and Disability Assistance),⁵ the sum of \$ _____ which amount represents reimbursement for the needs of the child accruing from the date of the birth of the child to the date of the application for this order (which sum may be paid at the rate of \$ _____ (bi-)(weekly)(semi-)(monthly)(quarterly) until the sum of \$ _____ is fully paid); and it is further

(ORDERED that the (Petitioner (Respondent) pay or cause to be paid to (as Trustee) (IV-D cases: Support Collection Unit) (Non-IV-D cases: N.Y.S. Office of Temporary and Disability Assistance),⁶ the sum of \$ _____ as and for the necessary expenses incurred or to be incurred by or for the mother in connection with her pregnancy, confinement and recovery (which sum may be paid at the rate of \$ _____ (bi-)(semi-)(weekly) (monthly) (quarterly) commencing on _____, _____, until the sum of \$ _____ is fully paid);) and it is further

⁷ORDERED that, pursuant to Family Court Act Section 440(1)(b)(2), this order shall be enforceable by immediate income deduction order issued in accordance with Section 5242 of the Civil Practice Law and Rules; and it is further

(ORDERED that, for the following reason(s)

constituting good cause pursuant to Section 440(1)(b) of the Family Court Act, the (IV-D cases: Support Collection Unit) (Non-IV-D cases: Court) shall NOT issue an immediate income execution; however, in the event of default,⁸ this order shall be enforceable pursuant to Section 5241 or 5242 of the Civil Practice Law and Rules, or in any other manner provided by law; and it is further

(IV-D cases only): ORDERED that the Respondent ,custodial parent and any other individual parties inform the Support Collection Unit of any changes in the following information: residential and mailing addresses, social security number, telephone number, driver's license number; and name, address and telephone numbers of the parties' employers ; and

⁵Non-IV-D cases only: payments must be remitted to: N.Y.S. Office of Temporary and Disability Assistance, P.O. Box 15365, Albany, New York 12260

⁶Non-IV-D cases only: payments must be remitted to: N.Y.S. Office of Temporary and Disability Assistance, P.O. Box 15365, Albany, New York

⁷ Non-IV-D cases only; delete if inapplicable

⁸"Default", as defined in CPLR §5241, means the failure to remit three payments on the date due in the full amount directed in this order, or the accumulation of arrears, including amounts arising from retroactive support, that are equal to or greater than the amount directed to be paid for one month, whichever occurs first.

(The Court having determined that employer- or organization health insurance coverage is available to [specify names(s):of legally-responsible relative(s)])
(under the following group health plan [specify, if known:]
)which provides the following health insurance

benefits [specify extent and type of benefits, if known]:
) or (that the dependent(s) named herein may be eligible for health insurance benefits under the New York "Child Health Plus" program), [delete inapplicable provision(s)],

IT IS THEREFORE ORDERED that [specify name(s) of legally-responsible relative(s)]:
enroll the dependent(s) named herein who are eligible for such benefits immediately and without regard to seasonal enrollment restrictions, effective as of [specify date]:
, and maintain such benefits as long as they remain available in accordance with [delete inapplicable provision(s)]:

9[IV-D cases only]:(the Medical Execution, which shall be issued immediately by the Support Collection Unit, pursuant to Section 5241 of the Civil Practice Law and Rules) (the Medical Execution issued by this Court)

9[Non IV-D cases only]:(the Qualified Medical Child Support Order).
Such benefits shall include all plans covering the health, medical, dental, optical and prescription drug needs of the dependent(s) named above and any other health care services or dependent(s); provided, however, that the group health plan is not required to provide any type or form of benefit or option not otherwise provided under the group health plan except to the extent necessary to meet the requirements of Section 1396(g-1) of Title 42 of the United States Code;)

G["Child Health Plus," IV-D and Non-IV-D cases]: (the "Child Health Plus" program, the NYS health insurance program for children. The custodial parent [specify name]:
shall immediately apply to enroll the eligible dependent(s) named herein in such program, effective as of [specify date]:
and the costs of such program shall be allocated among the parties as follows [specify]:

); (and it is further)

(ORDERED that [specify the legally-responsible relative(s)]:
assign all insurance reimbursement payments for health care expenses incurred for (his)(her) eligible dependents to the provider of such services or the party having actually incurred and satisfied such expenses, as appropriate)(and it is further)

(ORDERED that the cost or premiums, if any, to be paid by the legally-responsible relative(s) to obtain or maintain such benefits be allocated as follows between the parties:
)[Applicable to Non-IV-D cases only; delete if inapplicable] (and it is further)

(ORDERED that upon a finding that the above-named legally-responsible relative(s) willfully failed to obtain health insurance benefits in violation of [delete inapplicable provision]: (this order)(the medical execution)(the qualified medical child support order), such relative(s) will be presumptively liable for all health care expenses incurred on behalf of the above-named dependent(s) from the first date such dependent(s)(was)(were) eligible to be enrolled to receive health insurance benefits after the issuance of such order or execution directing the acquisition of such coverage)(and it is further)

ORDERED that [specify]: , the legally-responsible

relative(s) herein, pay (his) (her) pro rata share of future reasonable health expenses of the child(ren) not covered by insurance by (direct payments to the health care provider) (other [specify]:

) (as follows:

); (and it is further

(ORDERED that , the non-custodial parent herein pay (his)(her) pro rata share of future reasonable health care expenses of the child(ren) not covered by insurance by (direct payment to the health care provider)(as follows

);(and it is further)

(ORDERED that if health insurance for the dependents named herein that is not available at the present time becomes available in the future to the legally-responsible relative, such relative shall enroll the dependents named herein who are eligible for such benefits immediately and without regard to seasonal enrollment restrictions and shall maintain such benefits so long as they remain available)(and it is further)

(ORDERED that , the non-custodial parent herein, pay the sum of \$ as (his)(her) proportionate share of reasonable child care expenses, to be paid as follows:

;) (and it is further)

(ORDERED that , the non-custodial parent herein, pay the sum of \$ as educational expenses by (direct payment to the educational provider) (as follows:

); (and it is further)

ORDERED that [specify party or parties]: _____

[Check applicable box(es)]

9 (purchase and maintain)(life)(and/or)(accident) insurance in the amount of [specify]: _____ (and/or)

9 (maintain the following existing (life)(and/or)(accident) insurance policy in the amount of [specify]: _____ (and/or)

9 assign the following as (beneficiary)(beneficiaries) [specify]: _____ to the following existing (life)(and/or)(accident) insurance amount(s): _____.

In the case of life insurance, the following shall be designated as irrevocable beneficiaries [specify]: _____ during the following time

period [specify]:
_____.

In the case of accident insurance, the insured party shall be designated as irrevocable beneficiary during the following time period [specify]: _____.

The obligation to provide such insurance shall cease upon the termination of the duty of [specify party]: _____ to provide support for each child. (and it is further)

(ORDERED that when the person or family to whom family assistance is being paid, no longer receives family assistance, support payments shall continue to be made to the Support Collection Unit, unless such person or family requests otherwise;) and it is further

ORDERED that a copy of this order be provided by (IV-D Support Collection Unit)(Non-IV-D Cases: Clerk of Court) [delete inapplicable provisions] promptly to the New York State case registry of child support orders established pursuant to Section 111-b(4-a) of the Social Services Law. (and it is further)

(ORDERED

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NOTE: (1) THIS ORDER OF CHILD SUPPORT SHALL BE ADJUSTED BY THE APPLICATION OF A COST OF LIVING ADJUSTMENT AT THE DIRECTION OF THE SUPPORT COLLECTION UNIT NO EARLIER THAN TWENTY-FOUR MONTHS AFTER THIS ORDER IS ISSUED, LAST MODIFIED OR LAST ADJUSTED, UPON THE REQUEST OF ANY PARTY TO THE ORDER OR PURSUANT TO PARAGRAPH (2) BELOW. UPON APPLICATION OF A COST OF LIVING ADJUSTMENT AT THE DIRECTION OF THE SUPPORT COLLECTION UNIT, AN ADJUSTED ORDER SHALL BE SENT TO THE PARTIES WHO, IF THEY OBJECT TO THE COST OF LIVING ADJUSTMENT, SHALL HAVE THIRTY-FIVE (35) DAYS FROM THE DATE OF MAILING TO SUBMIT A WRITTEN OBJECTION TO THE COURT INDICATED ON SUCH ADJUSTED ORDER. UPON RECEIPT OF SUCH WRITTEN OBJECTION, THE COURT SHALL SCHEDULE A HEARING AT WHICH THE PARTIES MAY BE PRESENT TO OFFER EVIDENCE WHICH THE COURT WILL CONSIDER IN ADJUSTING THE CHILD SUPPORT ORDER IN ACCORDANCE WITH THE CHILD SUPPORT STANDARDS ACT.

(2) A RECIPIENT OF FAMILY ASSISTANCE SHALL HAVE THE CHILD SUPPORT ORDER REVIEWED AND ADJUSTED AT THE DIRECTION OF THE SUPPORT COLLECTION UNIT NO EARLIER THAN TWENTY-FOUR MONTHS AFTER SUCH ORDER IS ISSUED, LAST MODIFIED OR LAST ADJUSTED WITHOUT FURTHER APPLICATION OF ANY PARTY. ALL PARTIES WILL RECEIVE NOTICE OF ADJUSTMENT FINDINGS.

(3) WHERE ANY PARTY FAILS TO PROVIDE, AND UPDATE UPON ANY CHANGE, THE SUPPORT COLLECTION UNIT WITH A CURRENT ADDRESS, AS REQUIRED BY SECTION FOUR HUNDRED FORTY-THREE OF THE FAMILY COURT ACT, TO WHICH AN ADJUSTED ORDER CAN

BE SENT, THE SUPPORT OBLIGATION AMOUNT CONTAINED THEREIN SHALL BECOME DUE AND OWING ON THE DATE THE FIRST PAYMENT IS DUE UNDER THE TERMS OF THE ORDER OF SUPPORT WHICH WAS REVIEWED AND ADJUSTED OCCURRING ON OR AFTER THE EFFECTIVE DATE OF THE ORDER, REGARDLESS OF WHETHER OR NOT THE PARTY HAS RECEIVED A COPY OF THE ADJUSTED ORDER.

ENTER

J.F.C/H.E

Dated: _____, _____.

Check applicable box:

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