

## **N.Y. FCT. LAW § 1081 : NY Code - Section 1081: Visitation rights**

1. A non-custodial parent or grandparent shall have the visitation rights with a child remanded or placed in the care of a social services official pursuant to this article as conferred by order of the family court or by any order or judgment of the supreme court, or by written agreement between the parents as described in section two hundred thirty-six of the domestic relations law, subject to the provisions of section one thousand eighty-two of this part.

2. A non-custodial parent or any grandparent or grandparents who have not been afforded the visitation rights described in subdivision one of this section, shall have the right to petition the court for enforcement of visitation rights with a child remanded or placed in the care of a social services official pursuant to this article, as such visitation rights have been conferred by order of the family court or by any order or judgment of the supreme court, or by written agreement between the parents as described in section two hundred thirty-six of the domestic relations law.

3. (a) The petition by a non-custodial parent shall allege that such parent has visitation rights conferred by order of the family court or by any order or judgment of the supreme court or by written agreement between the parents as described in section two hundred thirty-six of the domestic relations law, shall have a copy of such order, judgment or agreement attached thereto, shall request enforcement of such rights pursuant to this part, and shall state, when known by the petitioner, that visitation rights with the child by any grandparent or grandparents have been conferred by order of the supreme court or family court pursuant to section seventy-two or two hundred forty of the domestic relations law, and shall provide the name and address of such grandparent or grandparents.

(b) A petition by a grandparent or grandparents shall allege that such grandparent or grandparents have been granted visitation rights with the child pursuant to section seventy-two or two hundred forty of the domestic relations law, or subdivision (b) of section six hundred fifty-one of this act, shall have a copy of such order or judgment attached thereto, and shall request enforcement of such rights pursuant to this part.

4. The petition shall be served upon the respondent in a proceeding under this article, the local social services official having the care of the child, any grandparent or grandparents named in the petition as having visitation rights conferred by court order pursuant to section seventy-two or two hundred forty of the domestic relations law, and upon the child's law guardian. The petition shall be served in such manner as the court may direct.

5. Upon receipt of such petition the court shall, subject to the provisions of section one thousand eighty-two of this part, require that any order of a family court or order or judgment of the supreme court, or any agreement between the parents as described in subdivision one of this section, granting visitation rights to the non-custodial parent, grandparent or grandparents, be incorporated in any preliminary order or order of placement made under this article to the extent that such order, judgment or agreement confers visitation rights. In any case where a dispositional hearing has not been held or will not be held within thirty days of the filing of such petition the court shall order

the person, official, agency or institution caring for the child pursuant to this article to comply with such part of the order, judgment or agreement granting visitation rights. Violation of such order shall be punishable pursuant to section seven hundred fifty-three of the judiciary law.

## **N.Y. FCT. LAW § 1082 : NY Code - Section 1082: Approval, modification or denial of visitation rights**

1. (a)

Upon receipt of a petition pursuant to subdivision four of section one thousand eighty-one of this part, the local department of social services shall make inquiry of the state central register of child abuse and maltreatment to determine whether or not the petitioner is a subject of an indicated report of child abuse or maltreatment, as such terms are defined in section four hundred twelve of the social services law, and shall further ascertain whether or not the petitioner is a respondent in a proceeding under this article whereby the child with whom visitation is sought has been allegedly abused or neglected or has been adjudicated as an abused or neglected child.

(b) The department, the law guardian and the respondent in a proceeding under this article, shall have the right to be heard in respect to a petition for an order to enforce visitation rights under this part.

2. Where the local department of social services or the law guardian opposes a petition described in section one thousand eighty-one of this part, the department or the law guardian as appropriate shall serve and file an answer to the petition. The court shall, upon the filing of such answer, set a date for a hearing on such petition and shall notify the parents, grandparent or grandparents, the department and the law guardian of such hearing date.

3. Whenever a hearing described in subdivision two of this section is to be held within ten court days of a dispositional hearing authorized under this article, the court may in its discretion hear such petition as part of such dispositional hearing.

4. In any hearing under this section, the court shall approve such petition unless the court finds upon competent, relevant and material evidence that enforcement of visitation rights as described in the order, judgment or agreement would endanger the child's life or health. Upon such a finding, the court shall make an order denying such petition or make such other order affecting enforcement of visitation rights as the court deems to be in the best interests of the child.

5. (a) Where a petition is approved pursuant to this section the parties may agree in writing to an alternative schedule of visitation equivalent to and consistent with the original or modified visitation order or agreement where such alternative schedule reflects changed circumstances of the parties and is consistent with the best interests of the child.

(b) In the absence of such an agreement between the parties, the court may, in its discretion, order an alternative schedule of visitation as defined herein, where it determines that such schedule is necessary to facilitate visitation and to protect the best interests of the child.

## **N.Y. FCT. LAW § 1083 : NY Code - Section 1083: Duration of orders affecting visitation rights**

1. Where an

order of the court has been made incorporating an order, judgment or agreement conferring visitation rights with a child on a non-custodial parent or grandparent into a dispositional order under this article, or where the court otherwise orders compliance by a person, official, agency or institution caring for the child, with an order, judgment or agreement granting visitation rights, such order shall remain in effect for the length of time the child remains in such care pursuant to this article, unless such order is subsequently modified by the court for good cause shown.

2. Where the court makes an order denying a petition seeking enforcement of visitation rights or makes an order modifying visitation rights, pursuant to the provisions of section one thousand eighty-two of this part, such order shall remain in effect for the length of time the child is placed with a person, official, agency or institution caring for the child pursuant to this article, unless such order is subsequently modified by the court for good cause shown.

## **N.Y. FCT. LAW § 1085 : NY Code - Section 1085: Visitation and custody rights unenforceable; murder of parent, custodian, guardian, or child**

1. No visitation or custody order shall

be enforceable under this part by a person who has been convicted of murder in the first or second degree in this state, or convicted of an offense in another jurisdiction which, if committed in this state, would constitute either murder in the first or second degree, of a parent, legal custodian, legal guardian, sibling, half-sibling or step-sibling of the child unless:

(i) (A) such child is of suitable age to signify assent and such child assents to such visitation or custody; or

(B) if such child is not of suitable age to signify assent the child's custodian or legal guardian assents to such order; or

(C) the person who has been convicted of murder in the first or second degree, or an offense in another jurisdiction which if committed in this state, would constitute either murder in the first or second degree, can prove by a preponderance of the evidence that:

(1) he or she, or a family or household member of either party, was a victim of domestic violence by the victim of such murder; and

(2) the domestic violence was causally related to the commission of such murder; and

(ii) the court finds that such visitation or custody is in the best interest of the child.

2. Pending determination of a petition for visitation or custody such child shall not visit and no person shall visit, with such child present, such person, legal guardian or legal custodian who has been convicted of murder in the first or second degree in this state, or an

offense in another jurisdiction which, if committed in this state, would constitute either murder in the first or second degree, of the other parent, legal guardian, legal custodian, sibling, half-sibling or step-sibling of such child, without the consent of such child's custodian or legal guardian.

3. Nothing contained in this section shall be construed to require a court, without petition from any of the interested parties, to review a previously issued order of visitation or custody or denial of such petition.

4. For the purposes of making a determination pursuant to subparagraph (C) of paragraph (i) of subdivision one of this section, the court shall not be bound by the findings of fact, conclusions of law or ultimate conclusion as determined by the proceedings leading to the conviction of murder in the first or second degree in this state or of an offense in another jurisdiction which, if committed in this state, would constitute murder in either the first or second degree, of a parent, legal guardian, legal custodian, sibling, half-sibling or step-sibling of a child who is the subject of the proceeding. In all proceedings under this section, a law guardian shall be appointed for the child.

## **N.Y. FCT. LAW § 1030 : NY Code - Section 1030: Order of visitation by a respondent**

(a) A respondent shall

have the right to reasonable and regularly scheduled visitation with a child in the temporary custody of a social services official pursuant to this part or pursuant to subdivision (d) of section one thousand fifty-one of this article, unless limited by an order of the family court.

(b) A respondent who has not been afforded such visitation may apply to the court for an order requiring the local social services official having temporary custody of the child pursuant to this part or pursuant to subdivision (d) of section one thousand fifty-one of this article, to permit the respondent to visit the child at stated periods. Such application shall be made upon notice to the local social services official and to any law guardian appointed to represent the child, who shall be afforded an opportunity to be heard thereon.

(c) A respondent shall be granted reasonable and regularly scheduled visitation unless the court finds that the child's life or health would be endangered thereby, but the court may order visitation under the supervision of an employee of a local social services department upon a finding that such supervised visitation is in the best interest of the child.

(d) An order made under this section may be modified by the court for good cause shown, upon application by any party or the child's law guardian, and upon notice of such application to all other parties and the child's law guardian, who shall be afforded an opportunity to be heard thereon.

(e) An order made under this section shall terminate upon the entry of an order of disposition pursuant to part five of this article.

## **N.Y. FCT. LAW § 447 : NY Code - Section 447: Order of visitation**

(a) In the absence of an order of custody or of visitation entered by the supreme court, the court may make an order of custody or of visitation, in accordance with subdivision one of section two hundred forty of the domestic relations law, requiring one parent to permit the other to visit the children at stated periods without an order of protection, even where the parents are divorced and the support order is for a child only.

(b) Any order of the family court under this section shall terminate when the supreme court makes an order of custody or of visitation concerning the children, unless the supreme court continues the order of the family court.

## **N.Y. FCT. LAW § 549 : NY Code - Section 549: Order of visitation**

(a) If an order of filiation is made or if a paternity agreement or compromise is approved by the court, in the absence of an order of custody or of visitation entered by the supreme court the family court may make an order of custody or of visitation, in accordance with subdivision one of section two hundred forty of the domestic relations law, requiring one parent to permit the other to visit the child or children at stated periods.

(b) Any order of the family court under this section shall terminate when the supreme court makes an order of custody or of visitation concerning the child or children, unless the supreme court continues the order of the family court.

## **N.Y. DOM. LAW § 241 : NY Code - Section 241: Interference with or withholding of visitation rights; alimony or maintenance suspension**

When it appears to the satisfaction of the court that a custodial parent receiving alimony or maintenance pursuant to an order, judgment or decree of a court of competent jurisdiction has wrongfully interfered with or withheld visitation rights provided by such order, judgment or decree, the court, in its discretion, may suspend such payments or cancel any arrears that may have accrued during the time that visitation rights have been or are being interfered with or withheld. Nothing in this section shall constitute a defense in any court to an application to enforce payment of child support or grounds for the cancellation of arrears for child support.