

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

.....

In the matter of a Proceeding under
Article(4)(5-B) of the Family Court Act
(Commissioner of Social Services, Assignee,
on behalf of _____, Assignor)

Docket No.

ORDER
(Order Upon Support
Magistrate Determination
of Willfulness)

Petitioner

S.S.#: xxxx-xx- _____

-against-

Respondent.

S.S.#: xxxx-xx- _____

.....

**NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY RESULT IN
INCARCERATION FOR CRIMINAL NON-SUPPORT OR CONTEMPT. YOUR
FAILURE TO OBEY THIS ORDER MAY RESULT IN 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.**

An order in the above-entitled proceeding dated _____, _____, having been duly
made and entered herein by a Support Magistrate of this Court containing a determination that
Respondent has willfully failed to obey an order of the Court pursuant to Section 156 of the Family
Court Act and referring the determination to a Judge of this Court for confirmation in accordance
with Section 439 (a) of the Family Court Act;

[Delete if inapplicable]:¹ And the Respondent having shown failed to show good cause for failure to make applications for relief from the order of this court directing payment prior to the accrual of the arrears;

IT IS HEREBY

ADJUDGED that the Respondent failed to obey the order of this Court and that such failure was was not willful;

OR

ADJUDGED that the Respondent did not fail to obey the order of this Court; and it is further

ADJUDGED that the Respondent knowingly, consciously and voluntarily disregarded (his)(her)obligation under a lawful court order in that Respondent willfully failed to pay the sum of \$ _____ which amount the Court finds to be the arrears due and owing under the Order.

And the name, date of birth and social security number of the child(ren) involved is/are;

NAME DATE OF BIRTH LAST 4 DIGITS OF SOC. SEC. #

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

NAME ADDRESS TELEPHONE

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 hereby _____ ;

ORDERED that the determination of the Support Magistrate pursuant to Section 156 of the Family Court Act made herein that Respondent willfully failed to obey an order of the Court is² is not hereby confirmed; and

ORDERED that a copy of this order be provided promptly by [check applicable box]:
 IV-D cases: Support Collection Unit Non-IV-D cases: Clerk of Court to the New York

¹To be used in instances of spousal support or maintenance.

²If the determination of the Support Magistrate is confirmed, this order must be accompanied by Form 4-12b (Order of Disposition for Violation of Support Order).

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

ENTER

Judge of the Family Court

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]:_____

INFORMATION CONCERNING COST OF LIVING ADJUSTMENTS AND MODIFICATIONS

(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 TO WHICH AN ADJUSTED ORDER CAN BE SENT, AS REQUIRED BY SECTION 443 OF THE FAMILY COURT ACT. 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.

(4) IN ADDITION TO A COST OF LIVING ADJUSTMENT, EACH PARTY HAS A RIGHT TO SEEK A MODIFICATION OF THE CHILD SUPPORT ORDER UPON A SHOWING OF: (I) A SUBSTANTIAL CHANGE IN CIRCUMSTANCES; OR (II) THAT THREE YEARS HAVE PASSED SINCE THE ORDER WAS ENTERED, LAST MODIFIED OR ADJUSTED; OR (III) THERE HAS BEEN A CHANGE IN EITHER PARTY'S GROSS INCOME BY FIFTEEN PERCENT OR MORE SINCE THE ORDER WAS ENTERED, LAST MODIFIED, OR ADJUSTED; HOWEVER, IF THE PARTIES HAVE SPECIFICALLY OPTED OUT OF SUBPARAGRAPH (II) OR (III) OF THIS PARAGRAPH IN A VALIDLY EXECUTED AGREEMENT OR STIPULATION, THEN THAT BASIS TO SEEK MODIFICATION DOES NOT APPLY.

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 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.