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INFORMATIONAL LETTER

TRANSMITTAL: 96 INF-23

TO: Commissioners of  
 Social Services

DIVISION: Services and  
 Community  
 Development

DATE: June 11, 1996

SUBJECT: Surrender Forms  
 For Children in Foster Care

SUGGESTED

DISTRIBUTION: Child Welfare Executive and Supervisory Staff  
 Legal Staff  
 Foster Care Staff  
 Adoption Staff  
 Staff Development Coordinators

CONTACT PERSON: Any questions concerning this release should be directed  
 to the appropriate Regional Office of the Office of  
 Family and Children Services.

BRO - Linda Brown (716) 847-3145 USER ID: 89D421  
 RRO - Linda Kurtz (716) 238-8201 USER ID: 0FH010  
 SRO - Jack Klump (315) 423-1200 USER ID: 89W005  
 ARO - Bill McLaughlin (518) 432-2751 USER ID: 0FN010  
 MRO - Fred Levitan (212) 383-1788 USER ID: 72W035

ATTACHMENTS: DSS 4315 & 4315-S Judicial Surrender Forms  
 DSS 4316 & 4316-S Extra-Judicial Surrender Forms  
 ( forms are not available on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
91 INF-30	91 INF-30 91 LCM-8	421.6	383-c		91 LCM-8
93 INF-43					

The purpose of this release is to inform you that the final versions of the judicial and extra-judicial surrender forms for Section 383-c of the Social Services Law (SSL) are available. Both the English and Spanish versions of the forms are available. The forms reflect the change made in statute, whereby the surrendering parent(s) may be contacted anytime after the child reaches the age of eighteen years if both parties agree, instead of after the child reaches the age of twenty one.

The forms in Spanish are to be used in those cases where the principal language of the parent(s) surrendering the foster child is Spanish. The forms must be read to the parent(s) in their principal language. The parent(s) must be given the opportunity to ask questions and obtain answers regarding the nature and consequences of the surrender.

Department publications 91 LCM-8 and 91 INF-30 which explained the use of the interim surrender forms have been cancelled. Pertinent information from those releases is incorporated into this release.

Department regulations 18 NYCRR 421.6 implement the statutory requirements of Section 383-c of the Social Services Law concerning the taking of an extra-judicial surrender. The regulations provide that the surrender of a child in foster care not executed and acknowledged before a judge of the Family Court or Surrogate Court must be executed and acknowledged by the parent or legal guardian, in the presence of at least two witnesses, before a notary public or other officer authorized to take proof of deeds. At least one of the witnesses must be an employee of the authorized agency which is accepting the surrender. Such employee must receive in-service training and instruction provided by the agency on taking an extra-judicial surrender. The regulations outline the minimum topics to be covered in the in-service training, including legal responsibilities in execution of the document and the required affidavits, responsibility to the parent(s), and the required knowledge concerning the legal requirements for taking an extra-judicial surrender and for submitting the signed surrender to the court. Upon completion of such in-service training, the employee is qualified to serve as a witness to an extra-judicial surrender.

The second witness to an extra-judicial surrender must be an impartial witness. The impartial witness must be either a certified social worker or an attorney duly admitted to the practice of law before the courts of the state in which the surrender is executed. The impartial witness cannot be an employee, volunteer, consultant or an attorney for the authorized agency to which the child is being surrendered. Note: The regulations provide specific conditions to be followed to ensure the impartial selection and independence of the impartial witness. The impartial witness cannot receive payment or any type of compensation for serving as a witness to the extra-judicial surrender.

Both witnesses are required to sign affidavits which are to accompany the executed extra-judicial surrender which must be submitted subsequently to the court for approval. The contents of the affidavits are set forth in Section 383-c of the SSL and in the regulation.

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Copies of the surrender forms are attached for your use. Requests for additional copies of these forms are to be submitted on Form DSS-876 (Rev. 2/96): "Request for Forms or Publications", and should be sent to:

New York State Department of Social Services  
Bureau of Forms and Print Management  
P.O. Box 1990  
Albany, New York, 12201

Questions concerning ordering the forms should be directed to Don Parker by calling 1-800-343-8859, extension 4-2702.

Please make this publication available to your counsel's office and child welfare units immediately. Any unused interim surrender forms for children in foster care should be destroyed. The Department is sharing this information with the directors of voluntary agencies.

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Rose M. Pandozy  
Deputy Commissioner  
Division of Services and  
Community Development