§ 1034. Power to order investigations. 1. A family court judge may order the child protective service of the appropriate social services district to conduct a child protective investigation as described by the social services law and report its findings to the court:

(a) in any proceedings under this article, or

(b) in order to determine whether a proceeding under this article should be initiated.

2. (a)(i) Before a petition is filed and where there is reasonable cause to suspect that a child or children's life or health may be in danger, child protective services may seek a court order based upon:

(A) a report of suspected abuse or maltreatment under title six of article six of the social services law as well as any additional information that a child protective investigator has learned in the investigation; and

(B) the fact that the investigator has been unable to locate the child named in the report or any other children in the household or has been denied access to the child or children in the household sufficient to determine their safety; and

(C) the fact that the investigator has advised the parent or other persons legally responsible for the child or children that, when denied sufficient access to the child or other children in the household, the child protective investigator may consider seeking an immediate court order to gain access to the child or children without further notice to the parent or other persons legally responsible.

(ii) Where a court order has been requested pursuant to this paragraph the court may issue an order under this section requiring that the parent or other persons legally responsible for the child or children produce the child or children at a particular location which may include a child advocacy center, or to a particular person for an interview of the child or children, and for observation of the condition of the child, outside of the presence of the parent or other person responsible.

(b)(i) Before a petition is filed and where there is probable cause to believe that an abused or neglected child may be found on the premises, child protective services may seek a court order based upon:

(A) a report of suspected abuse or maltreatment under title six of

article six of the social services law as well as any additional information that a child protective investigator has learned in the investigation; and

(B) the fact that the investigator has been denied access to the home of the child or children in order to evaluate the home environment; and

(C) the fact that the investigator has advised the parent or other person legally responsible for the child or children that, when denied access to the home environment, the child protective investigator may consider seeking an immediate court order to gain access to the home environment without further notice to the parent or other person legally responsible.

(ii) Where a court order has been requested pursuant to this paragraph the court may issue an order under this section authorizing the person conducting the child protective investigation to enter the home in order to determine whether such child or children are present and/or to conduct a home visit and evaluate the home environment of the child or children.

(c) The procedure for granting an order pursuant to this subdivision shall be the same as for a search warrant under article six hundred ninety of the criminal procedure law. If an order is issued in accordance with this subdivision the court shall specify which action may be taken and by whom in the order.

(d) In determining if such orders shall be made, the court shall consider all relevant information, including but not limited to:

(i) the nature and seriousness of the allegations made in the report;

(ii) the age and vulnerability of the child or children;

(iii) the potential harm to the child or children if a full investigation is not completed;

(iv) the relationship of the source of the report to the family, including the source's ability to observe that which has been alleged; and

(v) the child protective or criminal history, if any, of the family and any other relevant information that the investigation has already obtained.

(e) The court shall assess which actions are necessary in light of the child or children's safety, provided, however, that such actions shall be the least intrusive to the family.

(f) The court shall be available at all hours to hear such requests by the social services district which shall be permitted to make such requests either in writing or orally, pursuant to section 690.36 of the criminal procedure law, in person to the family court during hours that the court is open and orally by telephone or in person, pursuant to section 690.36 of the criminal procedure law, to a family court judge when the court is not open. While the request is being made, law enforcement shall remain where the child or children are or are believed to be present if the child protective services investigator has requested law enforcement assistance. Provided, however, that law enforcement may not enter the premises where the child or children are believed to be present without a search warrant or another constitutional basis for such entry.

(g) Where the court issues an order under this section, the child protective investigator shall within three business days prepare a report to the court detailing his or her findings and any other actions that have been taken pertaining to the child named in the report and any other children in the household.

(h) Nothing in this section shall limit the court's authority to issue any appropriate order in accordance with the provisions of this article after a petition has been filed.