

# INSTRUCTIONS FOR FLORIDA SUPREME COURT APPROVED FAMILY LAW FORM 12.970(a), PETITION FOR TEMPORARY CUSTODY BY EXTENDED FAMILY (04/11)

## *When should this form be used?*

This form should be used by an **extended family member** to obtain temporary custody of a child or children pursuant to Chapter 751, Florida Statutes. This form **should not** be used if you are a parent seeking to establish parental responsibility or time-sharing with a child or children.

An **Extended Family Member** is:

A relative of a minor child within the third degree by blood or marriage to the parent;

OR

The stepparent of a minor child if the stepparent is currently married to the parent of the child and is not a party in a pending dissolution, separate maintenance, domestic violence, or other civil or criminal proceeding in any court of competent jurisdiction involving one or both of the child(ren)'s parents as an adverse party.

You may file a Petition for Temporary Custody if:

You have the signed, notarized consents of the child(ren)'s legal parents;

OR

You are an extended family member who is caring full time for the child(ren) in the role of a substitute parent and with whom the child(ren) is (are) presently living.

If one of the minor child(ren)'s parents objects to the Petition, the court shall grant the Petition only upon a finding, by clear and convincing evidence, that the child(ren)'s parent or parents are unfit to provide for the care and control of the child(ren). In determining that a parent is unfit, the court must find that the parent has abused, abandoned, or neglected the child(ren), as defined in Chapter 39, Florida Statutes. If you do not have the parents' consents **you should consult a family law attorney before you file your papers.**

If you do not meet the qualifications above, you should talk to an attorney about other options. You may also report any suspected abuse, abandonment, or neglect to the appropriate authorities.

This form should be typed or printed in black ink. After completing this form, you should sign the form before a **notary public** or **deputy clerk**. You should **file** the original with the **clerk of the circuit court** in the county where you live and keep a copy for your records.

## *What should I do next?*

IF YOU HAVE SIGNED AND NOTARIZED WAIVERS OF SERVICE OF PROCESS AND CONSENTS from the child(ren)'s mother and father, and the case is uncontested, you may call the clerk, **family law intake staff**, or **judicial assistant**, to set a **final hearing**. You must notify the child(ren)'s parents of the hearing

by using a **Notice of Hearing (General)**, Florida Supreme Court Approved Family Law Form 12.923, or other appropriate notice of hearing form.

If one of the parents is deceased, you must file a certified copy of the proof of death.

IF YOU DO NOT HAVE SIGNED AND NOTARIZED WAIVERS OF SERVICE OF PROCESS AND CONSENTS from the child(ren)'s parents, you must properly notify the parents of the **petition**. If you know where he or she lives, you should use **personal service**. If you absolutely do not know where he or she lives after conducting a diligent search, you may use **constructive service**. You must complete all of the searches listed in the **Affidavit of Diligent Search and Inquiry**, Florida Family Law Rules of Procedure Form 12.913(b), and file the form with the clerk. You should seek legal advice on constructive service as this is a complicated area of the law. If the identity of one parent is unknown, you will need to seek legal advice to determine the proper way to serve an unknown parent. For more information, see Chapter 49, Florida Statutes.

If personal service is used, the **parents** have 20 days to answer after being served with your petition. Your case will generally proceed in one of the following ways:

**DEFAULT.** . . . If after 20 days, no **answer** has been filed, you may file a **Motion for Default**, Florida Supreme Court Approved Family Law Form 12.922(a), with the clerk of court. You must file a **Notice for Trial**, Florida Supreme Court Approved Family Law Form 12.924. Then, if you have filed all of the required papers, you may call the clerk, **family law intake staff**, or **judicial assistant**, to set a **final hearing**. You must notify the child(ren)'s parents of the hearing by using a **Notice of Hearing (General)**, Florida Supreme Court Approved Family Law Form 12.923, or other appropriate notice of hearing form.

**CONTESTED.** . . . If either parent files an answer which disagrees with or denies anything in your petition, and you are unable to settle the disputed issues, you must file a **Notice for Trial**, Florida Supreme Court Approved Family Law Form 12.924, to request a final hearing. Some circuits may require the completion of **mediation** before a final hearing may be set. You should contact the clerk, **family law intake staff**, or **judicial assistant** for instructions on how to set your case for **trial** (final hearing).

At any time, either or both of the child(ren)'s parents may petition the court to modify or terminate the order granting temporary custody. The court shall terminate the order upon a finding that the parent is a fit parent, or by the consent of the parties. The court may modify an order granting temporary custody if the parties consent or if the modification is in the best interest of the child(ren).

### ***Where can I look for more information?***

**Before proceeding, you should read General Information for Self-Represented Litigants found at the beginning of these forms.** The words that are in **bold underline** in these instructions are defined there. For further information, see Chapter 751 and Chapter 39, Florida Statutes.

### ***Special Notes . . .***

If you do not have the money to pay the filing fee, you may obtain an application for Determination of Civil Indigent Status, fill it out, and the clerk will determine whether you are eligible to have filing fees deferred.

With this petition, you must file the following and provide a copy to the other party:

- **Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) Affidavit**, Florida Supreme Court Approved Family Law Form 12.902(d).
- **Notice of Related Cases**, Florida Family Law Rules of Procedure Form 12.900(h).
- **Family Court Cover Sheet**, Florida Family Law Rules of Procedure Form 12.928.
- **Non-Military Affidavit**, Florida Supreme Court Approved Family Law Form 12.912(b). (Required only for obtaining a default on petitions that have been personally or constructively served. Not required if both parents have signed a waiver and consent)

Remember, a person who is NOT an attorney is called a nonlawyer. If a nonlawyer helps you fill out these forms, that person must give you a copy of a **Disclosure from Nonlawyer**, Florida Family Law Rules of Procedure Form 12.900(a), before he or she helps you. A nonlawyer helping you fill out these forms **must** also put his or her name, address, and telephone number on the bottom of the last page of every form he or she helps you complete.

IN THE CIRCUIT COURT OF THE \_\_\_\_\_ JUDICIAL CIRCUIT,  
IN AND FOR \_\_\_\_\_ COUNTY, FLORIDA

Case No: \_\_\_\_\_

Division: \_\_\_\_\_

\_\_\_\_\_,  
Petitioner,

and

\_\_\_\_\_,  
Respondent/Mother,

\_\_\_\_\_,  
Respondent/Father.

### PETITION FOR TEMPORARY CUSTODY BY EXTENDED FAMILY

Petitioner, {full legal name} \_\_\_\_\_, being sworn, certifies that the following information is true:

1. This is an action for temporary custody pursuant to Chapter 751, Florida Statutes.

2. Petitioner requests temporary custody of the following minor child(ren):

Name	Date of Birth	Current Address
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_____	_____	_____
_____	_____	_____
_____	_____	_____

3. Petitioner completed a **Uniform Child Custody Jurisdiction and Enforcement Act Affidavit**, Florida Supreme Court Approved Family Law Form 12.902(d), which was filed with this Petition. The affidavit includes the names and current addresses of the persons with whom the child(ren) has(have) lived during the past 5 years, the places where the child(ren) has(have) lived during the past 5 years, and information concerning any custody proceeding in this or any other state with respect to the child(ren). **If the Affidavit is not completely filled out, signed under oath, and filed with the Petition, the case may be dismissed without hearing.**

4. Petitioner is an extended family member who is: [Choose **one** only]

\_\_\_\_\_ Related to the minor child(ren) within the third degree by blood or marriage to a parent;  
OR

\_\_\_\_\_ The stepparent of the minor child(ren), is married to the ( )Mother ( )Father and is not a party in a pending dissolution, separate maintenance, domestic violence, or other civil or criminal proceeding in any court of competent jurisdiction involving one or both of the child(ren)'s parents as an adverse party.

5. Petitioner's relationship to the minor child(ren) is: \_\_\_\_\_.

6. The residence and post office address of the Petitioner is: \_\_\_\_\_  
\_\_\_\_\_.

7. Petitioner is a proper person to be awarded temporary custody because: [Choose **one** only]  
\_\_\_\_ Petitioner has the signed, notarized consent from **both** of the child(ren)'s legal parents;  
OR  
\_\_\_\_ Petitioner is caring full time for the child(ren) in the role of a substitute parent and the  
child(ren) currently live with the Petitioner.

**If Petitioner does not have the signed consents from both parents or is not caring for the child(ren) full time as a substitute parent, Petitioner cannot obtain temporary custody under Chapter 751, Florida Statutes. Petitioner should consult an attorney about other options.**

8. The legal mother of the child(ren) is \_\_\_\_\_, whose current  
address is: \_\_\_\_\_.

9. The legal father of the child(ren) is \_\_\_\_\_, whose  
current address is: \_\_\_\_\_.

10. The Consents of \_\_\_\_\_ Father **and/or** \_\_\_\_\_ Mother is/are attached to the Petition.

OR

*{If Applicable}* The Consent of the \_\_\_\_\_ is not attached because that parent is  
deceased. A certified copy of the proof of death is attached.

OR

Consent has NOT been obtained from the parents. The specific acts or omissions of the parents  
which demonstrate that the parents have abused, abandoned, or neglected the child(ren) as  
defined in Chapter 39, Florida Statutes are: (attach additional sheets if necessary)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

11. Petitioner requests temporary custody be granted for the following period of time: \_\_\_\_\_  
\_\_\_\_\_.

The reasons that support this request are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

12. It is in the best interests of the child(ren) that the Petitioner have temporary custody of the  
child(ren) for the following reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**13. ORDER OF PROTECTION**

\_\_\_ Petitioner **IS NOT** aware of any temporary or permanent order for protection entered on behalf of or against either parent, the Petitioner, or the child(ren) in Florida or any other jurisdiction.

OR

\_\_\_ Petitioner **IS** aware of the following temporary or permanent orders for protection entered on behalf of or against either parent, the Petitioner, or the child(ren) in Florida or any other jurisdiction. The court entering the order and the case number is: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**14. TEMPORARY OR PERMANENT CHILD SUPPORT ORDERS**

\_\_\_ Petitioner **IS NOT** aware of any temporary or permanent orders for child support for the minor child(ren).

OR

\_\_\_ Petitioner **IS** aware of the following temporary or permanent order for child support for the minor child(ren). The court entering the order and the case number is: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

**15. CHILD SUPPORT [Choose one only]**

(You must have proof or waiver of service of process upon the parent(s) or a Waiver of Service of Process and Consent for the court to consider an award for child support)

\_\_\_ Petitioner requests the court to order the parents to pay child support.

\_\_\_ Petitioner requests the court to redirect all or part of Mother’s and/or Father’s existing child support obligation to the Petitioner.

\_\_\_ Petitioner requests the court to redirect all or part of Mother’s and/or Father’s existing child support obligation to the Petitioner, and to award the Petitioner child support arrearages.

16. Petitioner \_\_\_ requests \_\_\_ does not request that the court establish reasonable visitation or a time-sharing schedule with the parents.

17. Other

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

WHEREFORE, Petitioner requests that this Court grant the Petitioner temporary custody of the child(ren) subject to this proceeding; award the Petitioner other relief as requested; and award any other relief that the Court deems necessary.

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this petition and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Dated: \_\_\_\_\_

Signature of Petitioner \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
Fax Number: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

Sworn to or affirmed and signed before me on \_\_\_\_\_ by \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC OR DEPUTY CLERK

\_\_\_\_\_  
Print, type, or stamp commissioned name of notary or deputy clerk.

\_\_\_\_ Personally known  
\_\_\_\_ Produced identification  
Type of identification produced \_\_\_\_\_

**IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS BELOW:** [fill in all blanks]

I, {full legal name and trade name of nonlawyer} \_\_\_\_\_  
a nonlawyer, whose address is {street} \_\_\_\_\_,  
{city} \_\_\_\_\_, {state} \_\_\_\_\_, {phone} \_\_\_\_\_, helped  
{name} \_\_\_\_\_ who is the Petitioner, fill out this form.