

SELF-HELP PROCEDURES FOR FILING PETITION FOR TEMPORARY LEGAL CUSTODY

Before you file a Petition for Temporary Legal Custody, please read the General Information for Self-Represented Litigants and this instruction sheet carefully.

IMPORTANT - YOU MUST BE CARING FULL TIME FOR THE CHILD(REN) IN THE ROLE OF A SUBSTITUTE PARENT AND BE ONE OF THE FOLLOWING IMMEDIATE FAMILY MEMBERS TO FILE THIS ACTION:

The child, parent, brother, sister, niece, nephew, aunt, uncle, grandparent or great-grandparent of the child(ren)s parent or

The child, parent, brother, sister, niece, nephew, aunt, uncle, grandparent or great-grandparent of the child(ren)s stepparent (who is currently married to the parent of the child and not a party to a pending civil or criminal proceeding involving one of the parents, as a adverse party.

There are fees for filing this petition and for service by the Sheriffs Office (if needed). If you cannot pay the fees at the time of filing because of unemployment or insufficient income, you may meet the criteria to be declared indigent. You must complete a Civil Affidavit/Application for Indigent Status with the Clerk of Court. Once you have completed this form, the Clerk of Court will determine if you meet the criteria for indigency. If you meet the criteria, your filing fee will be waived. If obtaining service of process by the Sheriff, you will need to take a copy of the Civil Affidavit/Application to the Sheriffs Office along with your summons and attachments.

The following is a checklist of forms and requirements. Specific instructions are available for each form to insure that you complete them correctly. **You may need to obtain additional forms depending on your circumstances.** The questions that follow this checklist may help you to determine additional forms you may need. Additional forms may be obtained from the Clerk of Court, Juvenile Division, 1800 St. Mary Avenue, Pensacola, Florida or you can download most of them from the Internet at www.flcourts.org and/or www.escambiaclerk.com.

Required information and documents to be filed (you may use this as a checklist):

1. ___ **Verified Petition for Temporary Legal Custody**
2. ___ **Acknowledgment of Limitation of Services** (must be filed with your petition).
3. ___ **Parental Consent and Waiver of Hearing for Temporary Legal Custody**, if possible (both parents)
4. ___ **Certified copy of the childs birth certificate**
5. ___ **Final Judgment for Temporary Legal Custody plus two (2) additional copies (must be accurately and neatly typed for the Judge to sign). Bring the orders and with two (2) self addressed stamped envelopes (one for each party) to your hearing.**
6. ___ **Waiver of Personal Appearance on Final Hearing for Temporary Legal Custody.**
Only court staff can determine if you are eligible to waive attendance at a hearing. You will be notified of this after you have filed Request for Hearing/Trial.
7. ___ Form 12.900(a) **Disclosure from Non-lawyer** (if a person who is not a lawyer helped you complete your paperwork.

Where to file:

Bring the **original** Petition and Consent Forms to Clerk of Court located at 1800 St. Mary Avenue, Pensacola, Florida,)(850) 595-3780 to be filed along with two(2) additional copies.

What to do after you have filed:

If consent is not given by one or both parents, service is required. Tell the Clerk you will need to issue a Summons along with the documents. The Summons informs the other birth parent(s) that they have 20 days to respond to your petition. If the respondent lives in Escambia County, take the summons with attachments to the Escambia County Sheriffs Office Civil Division for service of process on the respondent. The Sheriffs Office will send a Return of Service to you and to the Clerk of Court, stating whether the other birth parent was or was not served.

What if I cannot locate the parent or he/she lives outside the state and cannot be personally served:

If you have no way of locating the other birth parent(s) you must use what is called *constructive service* or publication. *Constructive service* is allowed only when the other party has never lived in Florida and you do not know where they are. If you have a last known Florida address, you must attempt *personal service* first, before you can use *constructive service*. The requirements for service on the respondent are complex so please read the information provided on service carefully. **IMPORTANT: The Court may have limited jurisdiction in your case if you used constructive service on the respondent.** For *constructive service* you will need to file Form 12.913(b) **Affidavit of Diligent Search and Inquiry** and **Notice of Action for Temporary Legal Custody**. **The Notice of Action** must be published with a qualified local newspaper at least once per week for four (4) consecutive weeks (ask the clerk for a list of qualified newspapers). In addition, if you do not know if the respondent is on active duty in the United States Military, you will need to fill out form 12.912(a) **Memorandum for Certificate of Military Service** and mail one copy to each of the military branches. If you cannot afford to pay to publish the Notice, you will need to file an Affidavit of Indigency, Form 12.902(a). If the clerk determines that you cannot afford these fees, they will post your Affidavit in a designated place for the required four-week period.

What if the other parent(s) does not file an answer or submit required documents:

Once the parent(s) has been served or waived service, he/she will have 20 days to file an Answer. If the respondent fails to serve or file a response or any paper within the 20 days allowed, you may file form 12.922(a) **Motion for Default** and request a hearing. **With the Motion for Default**, you must also file Form 12.912(b) **Nonmilitary Affidavit (if you are certain the other party is not in the military)**.

When **ALL** required documents and time requirements have been met and you believe your case is ready for a final hearing, **FILE YOUR REQUEST FOR HEARING/TRIAL WITH THE CLERK OF COURT ALONG WITH TWO SELF-ADDRESSED STAMPED ENVELOPES - ONE ADDRESSED TO EACH PARTY**. Your case will be reviewed and a hearing date, trial date or further instructions will be provided to you by mail. PLEASE DO NOT CALL TO INQUIRE.

____NOTICE OF LIMITATION OF SERVICES PROVIDED

This list of forms and procedural information should be considered as a guideline and not legal advice. It is best to consult with your own attorney, especially if your case presents significant issues regarding children, child support, alimony, retirement or pension benefits, assets or liabilities.

The personnel in the self-help program are not acting as your lawyer or providing legal advice to you. Self-help personnel are not acting on behalf of the Court or any judge. The presiding judge in your case may require amendment of a form or substitution of a different form other than any you may have obtained from the clerks office, the self-help office or a legal forms provider. The form(s) you file are only a request of the Court. The judge is not required to grant the relief requested in a form. The personnel in this self-help program cannot tell you what your legal rights or remedies are, represent you in court or tell you how to testify in court. Self-help services are available to all persons who are or will be parties to a family case. The information you give to and receive from self-help personnel is not confidential and may be subject to disclosure at a later date. Nothing you may tell family court personnel is confidential. If another person involved in

your case seeks assistance from the self-help program, that person will be given the same type of assistance you receive.

Clerks Office Juvenile Law Division: 595-3780

Court Administration Juvenile Self Help Office: 595-3736