

# PETITION FOR TEMPORARY CUSTODY CHAPTER 751

## NOTICE TO PARTIES WHO ARE NOT REPRESENTED BY AN ATTORNEY WHO IS A MEMBER IN GOOD STANDING OF THE FLORIDA BAR

This checklist is designed to help persons seeking to represent themselves in court without the assistance of an attorney. It is meant to serve as a guide only.

We do not guarantee that either the instructions or the forms will achieve the result desired by the parties or ensure that any individual judge will follow the procedures exactly or accept each and every form drafted. Any person using these instructions and forms does so at his/her own risk.

To obtain Florida approved family law forms visit the Florida Court Self Help website at [www.flcourts.org](http://www.flcourts.org).

Please note that Florida law prevents our staff from providing legal advice.

**AFTER** all forms are filled out and **NOTARIZED** you must have them reviewed by **Family Court Case Management**, which is located on the 2<sup>nd</sup> floor of the Lake County Courthouse. You **DO NOT** need to schedule an appointment to have your paperwork reviewed.

### **I. REVIEW OF DOCUMENTS WITH FAMILY COURT CASE MANAGEMENT**

#### **Additional items to bring for review with Family Court Case Management**

- If you are having the other party served you must have
  - a. An additional copy of the completed Petition
  - b. An additional copy of the completed Summons
  
- Three (3) stamped envelopes (If there is more than one (1) Petitioner and one (1) Respondent you will need an additional stamped envelope for each additional party.)
  - a. One addressed to the Petitioner
  - b. One addressed to the Respondent
  - c. One left blank to be used if necessary

### **II. INITIAL FILING**

#### **A. Petition**

- Petition for Temporary Custody under Chapter 751
  
- Civil Cover Sheet - Form 12.928

## **B. Required forms filed with initial petition**

- UCCJEA Affidavit - Form 12.902(d)
- Notice of Related Cases - Form 12.900(h)
- Non-Military Affidavit - Form 12.912(b) **(One for each parent.)**
- Summons: Personal Service on an Individual - Form 12.910(a). **Not required if the other party has signed a Waiver of Consent. (One for each parent.)**
- Process Service Memorandum - Form 12.910(b) **(One for each parent.)**

**Out of County/State Service Information:** If the other party resides outside of the county or the State of Florida, the party who filed the petition has two choices.

The first option is to complete and file the summons with the Clerk. The Clerk will sign and seal the summons, then return it to you. You then have the responsibility to forward the summons and paperwork to the out of county/state sheriff's office with the appropriate funds for service.

The second option: The party filing needs to contact the sheriff's office in the county which the other party resides in order to find out what is required for out of county/state service. Complete and file the summons with the Clerk. In addition, give the Clerk the payment required by the out of county/state sheriff and a pre-addressed stamped envelope addressed to the out of county/state sheriff. The Clerk's Office will forward the issued summons with the payment to the address provided for the out of county/state sheriff. **Most other states will not honor a Florida Affidavit of Indigence.**

**OR**

- Waiver and Consent **(One for each parent.)**

## **C. Other forms**

- Certified copy of the minor child's birth certificate
- Motion for Default/Default- Form 12.922(a)(b) **(One for each parent.)**
- Notice of Trial - Form 12.924

### III. SERVICE OF PROCESS

#### A. Personal Service

- Summons returned "served" and the Original Return of Service has been filed with the Clerk.
- After 20 days have passed from the day the Respondent was served, check to see whether the Respondent filed an answer or **any** papers within the 20 day period. If yes, you may check this item. **(If both checked, skip to Section IV; if no answer filed, go to "B.")**

#### **If your summons is returned to the clerk "NOT SERVED"**

1. **Alias summons:** Return to the Clerk of Court to request an **Alias** (2<sup>nd</sup> attempt at service) or **Pluries** (3<sup>rd</sup> or more attempt at service) service to be processed by the Clerk of Court.
  - Complete Summons: Personal Service on an Individual - Form 12.910(a)
  - Process Service Memorandum - Form 12.910(b)

#### **If you are still unable to serve the other party**

2. **Constructive Service (Publication):** is only to be used after you have completed an actual diligent search for the other party and have been unable to locate them.
  - Notice of Action Chapter 751 Temporary Custody
  - Affidavit of Diligent Search and Inquiry 12.913(b)

**If constructive service is used, the Court may grant only limited relief, in all cases it is best to have your petition personally served. This is a complicated area of the law and you may wish to consult with an attorney before using constructive service.**

**If proper service is not obtained, the Court cannot hear your case.**

## **B. Default**

- Respondent failed to answer or file any paper after service
- Motion for Default filed with Clerk - Form 12.922(a) (no sooner than 20 days after date of service)

### **AND**

- Notice for Trial-Form 12.924
- Default entered by Clerk - Form 12.922(b) **Note:** If the other party has filed **anything in the case** the Clerk will not be able to process the Default. This is also true if the other party is a member of the military service. If the Clerk is unable to process your Default, you need to file a motion for the "court to enter the default" send a copy to the other party and set a hearing on your motion.

**Only now is the case potentially ready for setting for trial/final hearing.**

## **IV. SETTING A HEARING**

- After an answer is filed or a Default has been entered, contact Family Court Case Management to set your hearing.
- **Call Family Court Case Management to request a final hearing.** Your court records will be reviewed for completeness and you will either be given a court calendar date or you will be given further instructions for setting your final hearing.

## **V. FINAL HEARING**

- The Petitioner is required to attend the final hearing. Temporary custody will not be granted if the Petitioner does not attend.

**When can I expect my final paperwork to arrive?** If you appeared at the final hearing you most likely will get your paperwork on that day.

**If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator at the Office of the Trial Court Administrator, Lake County Courthouse, P.O. Box 7800/550 W. Main Street, Tavares, FL 32778-7800, Telephone (352)-742-4221, at least 7 days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than 7 days; if you are hearing or voice impaired, call 711 or (352) 742-3890**