

CASE PROGRESSION CHECKLIST PETITION FOR TEMPORARY CUSTODY UNDER CHAPTER 751

This checklist has been prepared to assist you with the necessary procedure for bringing your case to final hearing. This checklist lists the minimum requirements and, even though fairly specific, may not be all-inclusive for every case. **It is not intended, and should not be substituted for proper legal advice from an attorney.** You should, however, find that making sure all necessary steps noted below are followed would reduce procedural difficulties and time delays.

I. INITIAL FILING:

A. Petition.

- Petition for Temporary Custody – Sixth Judicial Circuit Local Form.

B. Required forms filed with initial petition.

- Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) Affidavit - Form 12.902(d).
- Non-military Affidavit - 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) **Please note: two forms are included in the package, one must be filed for each parent that was served personally or by constructive service.**
- Affidavit of Indigency - Form 12.902(a), if you are requesting that filing fees and sheriff's fees be waived. (The clerk will also require you to fill out a short financial affidavit in addition to this form.)

C. Required fees.

- Filing fee paid or fee waiver granted by Court (the clerk will process this paperwork when you file).
- Fee paid for process service by Pinellas County Sheriff, or fee waiver granted. (Separate check or money order made payable to the Sheriff). If service is required outside of the State of Florida, the party who filed the petition must obtain service procedure information including fees from the county where the other party(s) resides. This information, along with applicable fees, must be provided to the Clerk's Office. The Clerk's Office will prepare the summons and forward the paperwork, and money order for the service fees, to the address provided. Most other states will not honor a Florida Affidavit of Indigence.
- Constructive Service fees: If you qualify, your notice of action may be posted on the courthouse wall for the required period of time (check with the clerk of court for more information). If you do not qualify for posting, you will need to contact one of the several approved newspapers (check with the clerk of court for more information) to inquire about having the notice of your lawsuit published. The Notice of Action must be published for 32 days. At the end of the publishing period, the newspaper will provide you with a affidavit that indicates how long it was published and includes a copy of the ad as it appeared in the newspaper.

D. Waiver and consent

- Waiver and Consent – Sixth Judicial Circuit Local Form. **Signed by each parent and notarized.** If you cannot obtain a Waiver and Consent Form, the parent(s) must be personally or constructively served (see below). If you can obtain only one Waiver and Consent, the other parent must be personally or constructively served.

If both parents have signed a Waiver and Consent, skip to section III to set the hearing.

II. SERVICE OF PROCESS:

Service of Process or Waiver and Consent: Each parent must either sign a waiver and consent, or be served personally or constructively. *Please note that constructive service can be an extremely complicated area of the law and you are strongly advised to seek legal advice if you must use this form of service.* If the identity of one parent is unknown, you will need to seek legal advice to determine the proper way to serve the unknown parent.

A. Personal Service.

- Process Service Memorandum - Form 12.910(b) **Note:** Two forms are included in the package. Each parent must have been served or have signed a Waiver and Consent form. If one, or both, parents reside outside of the state of Florida, you will need to contact the County where the parent(s) reside to determine how paperwork is served. You should find out what address the summons should be sent to, and the fees for personal service. This information will be given to the clerk when you file along with the money order for the service fee(s) so that your paperwork can be forwarded to the proper agency for service on the parent(s).
- Summons returned “served” and filed by Clerk - Form 12.910(a). You will need one for each parent being served by the Sheriff or licensed process server.
- After 20 days, plus 5 days for mailing, have passed from the day Respondent(s) was served, check to see whether Respondent(s) filed an answer or any paper within the 25 day period. If yes, you may check this item. You must follow this procedure for both parents if they were both served. **(If both checked, skip to Section III; if no answer filed, go to “B”.)**
- Summons returned “not served.” You will need to try to obtain a different address, such as a work address.
- Request clerk issue an alias (2nd time) or pluries (3rd or more) summons, if new address is known. If you cannot locate the parent(s), see Constructive Service below.

(If proper service is not obtained, the court cannot hear your case.)

- Constructive Service: If you are unable to locate one, or both, of the parents to have them sign a Waiver and Consent, or be served personally by a sheriff or licensed process server, then you can request the clerk of court to assist you with having your lawsuit posted on the courthouse wall or published in one of several approved newspapers. (The clerk of court can provide you with a list of approved newspapers where your suit can be published). This information must be posted or published for a period of 32 days. You are expected to continue to search for the other party(s) in the case. If you locate them, you are expected to have them personally served or obtain a Waiver and Consent form.
- Notice of Action for Temporary Custody of a Minor Child – Sixth Judicial Circuit Local Form. You will need one of these for each parent that is being served by constructive service.
- Affidavit of Diligent Search and Inquiry – Form 12.913(b). You will need one of these for each parent that is being served by constructive service.

If constructive service is used, the court may grant only limited relief. This is a complicated area of the Law and you may wish to consult with an attorney before using constructive service.

B. Default. Respondent(s) failed to answer or file any paper after service.

- Motion for Default filed with Clerk - Form 12.922(a) (no sooner than 25 days after date of service.) You will need one of these for each parent that is being served by constructive service.
and

- Default entered by Clerk. The clerk of court cannot enter a default against a party in the military service. If the clerk cannot enter the default because of military service, you will need to motion the court to enter a default and set a hearing on your motion.

Note: There are two forms in the package. This procedure must be followed for each parent that did not sign a Waiver and Consent, was served but did not file an answer.

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

III. SETTING A HEARING:

- A. After waiver(s) are filed, answer is filed or the Clerk enters default, contact the following.

Note that both parents must have either signed a waiver and consent, answered, or had a default entered against them before a hearing can be set.

Call the Courts Information and Resource Center at 727-582-7200. Your case may need to be reviewed by a Unified Family Court case manager before your hearing can be set.

- B. You may be instructed to prepare the Notice of Hearing (please be sure to fill out the certificate of service section on the bottom of the form).

If you are required to complete and file the notice of hearing, distribute as follows:

- Original filed with Clerk's Office
- Copy to each parent (must be received at least 5 days prior to the hearing date).
- Copy maintained for your use (optional)

If you do not properly complete this step, your hearing could be delayed.

IV. FINAL HEARING:

- A. Make arrangements for child care if applicable. Children not allowed to attend without prior Order, per Fla. Fam. L. R. P. 12.407).

- B. Bring to final hearing.

- Stamped (\$.60), pre-addressed envelopes for each party, one for each if before Judge, two for each if before General Master.

- Certified copies of all previous court orders affecting children (e.g. custody, visitation, support, dependency.)

- Order on Petition for Temporary Custody. You will fill this out according to the Judge's ruling during the hearing. You will provide an original and enough copies for all other parties in the case along with pre-addressed stamped envelopes for each party in the case.

"If you are a person with a disability who needs any accommodation in order to participate in a court proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Within two (2) working days of your receipt of any notice or order requiring your presence at a hearing, please contact the Human Rights Office, 400 S. Ft. Harrison Ave., Ste. 300, Clearwater, FL 33756, (727) 464-4062 (V/TDD)."