

**INSTRUCTIONS FOR FLORIDA SUPREME COURT APPROVED
FAMILY LAW FORM 12.970(a)
PETITION FOR TEMPORARY CUSTODY BY EXTENDED FAMILY
(06/21)**

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 children's parents as an adverse party;

OR

An individual who qualifies as "fictive kin." As defined in section 39.01, Florida Statutes, fictive kin means a person unrelated by birth, marriage, or adoption who has an emotionally significant relationship, which possesses the characteristics of a family relationship, to a child.

You may file a Petition for Temporary Custody if:

You have the signed, notarized consents of the children's legal parents;

OR

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

If one of the minor children's parents objects to the Petition, the court shall grant the Petition only upon a finding, by clear and convincing evidence, that the children's parent or parents are unfit to provide for the care and control of the children. In determining that a parent is unfit, the court must find that the parent has abused, abandoned, or neglected the children, 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.

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IMPORTANT INFORMATION REGARDING E-FILING

The Florida Rules of General Practice and Judicial Administration now require that all petitions, pleadings, and documents be filed electronically except in certain circumstances. **Self-represented litigants may file petitions or other pleadings or documents electronically; however, they are not required to do so.** If you choose to file your pleadings or other documents electronically, you must do so in accordance with Florida Rule of General Practice and Judicial Administration 2.525, and you must follow the procedures of the judicial circuit in which you file. **The rules and procedures should be carefully read and followed.**

IMPORTANT INFORMATION REGARDING E-SERVICE ELECTION

After the initial service of process of the petition or supplemental petition by the Sheriff or certified process server, the Florida Rules of General Practice and Judicial Administration now require that all documents required or permitted to be served on the other party must be served by electronic mail (e-mail) except in certain circumstances. **You must strictly comply with the format requirements set forth in the Rules of General Practice and Judicial Administration.** If you elect to participate in electronic service, which means serving or receiving pleadings by electronic mail (e-mail), or through the Florida Courts E-Filing Portal, you **must** review Florida Rule of General Practice and Judicial Administration 2.516. You may find this rule at www.flcourts.org through the link to the Rules of General Practice and Judicial Administration provided under either Family Law Forms: Getting Started, or Rules of Court in the A-Z Topical Index.

SELF-REPRESENTED LITIGANTS MAY SERVE DOCUMENTS BY E-MAIL; HOWEVER, THEY ARE NOT REQUIRED TO DO SO. If a self-represented litigant elects to serve and receive documents by e-mail, the procedures must always be followed once the initial election is made.

To serve and receive documents by e-mail, you must designate your e-mail addresses by using the **Designation of Current Mailing and E-mail Address**, Florida Supreme Court Approved Family Law Form 12.915, and you must provide your e-mail address on each form on which your signature appears. Please **CAREFULLY** read the rules and instructions for: **Certificate of Service (General)**, Florida Supreme Court Approved Family Law Form 12.914; **Designation of Current Mailing and E-mail Address**, Florida Supreme Court Approved Family Law Form 12.915; and Florida Rule of General Practice and Judicial Administration 2.516.

What should I do next?

IF YOU HAVE SIGNED AND NOTARIZED WAIVERS OF SERVICE OF PROCESS AND CONSENTS from the child(ren)'s parents, and the case is uncontested, you may contact the clerk, **family law intake staff**, or

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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 children'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(c), 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 contact 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 children'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 children

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.

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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** 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: _____

IN THE INTEREST OF

Children

Petitioner,

and

Respondent/ _____

Respondent/ _____.

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 children:

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

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 children have lived during the past 5 years, the places where the children have lived during the past 5 years, and information concerning any custody proceeding in this or any other state with respect to the children. **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 children within the third degree by blood or marriage to a parent;

OR

☐ The stepparent of the minor children, is married to Respondent *{full legal name}* _____ 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 children's parents as an adverse party;

OR

☐ An individual who qualifies as fictive kin as defined in section 39.01, Florida Statutes.

5. Petitioner's relationship to the minor children 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 children's legal parents;

OR

☐ Petitioner is caring full time for the children in the role of a substitute parent and the children currently live with the Petitioner.

If Petitioner does not have the signed consents from both parents or is not caring for the children 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 parents of the children are:

a. _____, whose current address is: _____
_____.

b. _____, whose current address is: _____
_____.

9. ☐ The Consents of Parent *{full legal name}* _____ and/or Parent *{full legal name}* _____ is/are attached to the Petition.

OR

☐ The Consent of Parent *{full legal name}* _____ 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 children as defined in Chapter 39, Florida Statutes are: (attach additional sheets if necessary) _____

_____.

10. Petitioner requests temporary custody be granted for the following period of time:

The reasons that support this request are: _____

11. It is in the best interests of the children that the Petitioner have temporary custody of the children for the following reasons:

12. **ORDER OF PROTECTION**

a. ☐ Petitioner **IS NOT** aware of any temporary or permanent order for protection entered on behalf of or against either parent, the Petitioner, or the children in Florida or any other jurisdiction.

OR

b. ☐ Petitioner **IS** aware of the following temporary or permanent orders for protection entered on behalf of or against either parent, the Petitioner, or the children in Florida or any other jurisdiction. The court entering the order and the case number is:

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

a. ☐ Petitioner **IS NOT** aware of any temporary or permanent orders for child support for the minor children.

OR

b. ☐ Petitioner **IS** aware of the following temporary or permanent order for child support for the minor children. The court entering the order and the case number is:

14. **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.)

a. ☐ Petitioner requests the court to order the parents to pay child support.

b. ☐ Petitioner requests the court to redirect all or part of the parents' existing child support obligation(s) to the Petitioner.

c. ☐ Petitioner requests the court to redirect all or part of the parents' existing child support obligation(s) to the Petitioner, and to award the Petitioner retroactive child support.

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

16. Petitioner ☐ requests ☐ does not request additional provisions which are related to the children's best interests, including, but not limited to, a reasonable plan for transitioning custody. The additional provisions requested are: _____

WHEREFORE, Petitioner requests that this Court grant the Petitioner temporary custody of the children 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: _____
Designated E-Mail Address(es): _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to or affirmed and signed before me by means of {choose one} _____ physical presence or
_____ online notarization on _____ by {name of person making statement}
_____.

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] This form was prepared for the Petitioner.

This form was completed with the assistance of:

{name of individual} _____,

{name of business} _____,

{address} _____,

{city} _____, {state} _____, {zip code} _____, {telephone number} _____.