

**PETITION TO
MODIFY CUSTODY
OR VISITATION**

INFORMATION ABOUT THIS PACKET

Before you choose to represent yourself in any action, it is strongly recommended that you seek the advice of an attorney.

The forms included in this packet are for those litigants who choose to represent themselves in court, pro se (without an attorney). The packet may or may not include all the forms you need for your particular situation. Additional forms may be available upon request from the Clerk of Court's office.

It is up to you, the pro se litigant, to determine which forms are appropriate for your situation and to fill the forms out completely and properly. It is also your decision whether or not to use these forms. If you have any questions concerning your legal rights and remedies, please contact an attorney.

The Clerk of Court's Office and the Family Law Pro Se Coordinator cannot give you legal advice. You are representing yourself and you alone are responsible for the correct completion and filing of forms.

For a complete list of forms that are available through the Clerk of Court's Office, please refer to the Family Law Forms, Commentary and Instructions Book. For other information, refer to the Florida Statutes and the Florida Family Law Rules of Procedure.

IMPORTANT INFORMATION AND INSTRUCTIONS FOR PRO SE

ABOUT LEGAL PROCEEDINGS:

- A pro se litigant is a person who represents himself on a legal matter without the legal advice and representation of an attorney licensed to practice law.
- It is highly recommended that you consult with an attorney before deciding to represent yourself in court.
- The Pro Se Coordinator nor the Clerk are attorneys and cannot give you legal advice, represent you in court, tell you what to say, do or write, or tell you about your legal rights and remedies.
- The Pro Se Coordinator can give information and guidance on how the court systems works, what forms are available for your use, local procedures for filing your forms and getting a hearing date and agencies in the community that may be able to assist you.
- It is the pro se litigant's responsibility to file the appropriate pleadings with the Clerk of Court, properly serve the opposing party with a copy of all documents, and make sure that the other party is given sufficient notice of the hearing.
- There is no confidential relationship between Family Law Pro Se Staff and pro se litigants.

ABOUT THE COURT HEARING:

- Be prepared to tell the Court what specific issues are to be addressed. It is recommended that you write down all issues and concerns that you will need to know in court rather than rely on memory.
 - The parties are not allowed to speak to each other. All questions and objections must be directed to the Judge. Address the Judge as "Your Honor" and request permission to address the court before speaking. Do not talk while the Judge is talking.
 - Arrangements should be made in advance for the care of minor children. The court will not address family law issues while the minor child(ren) are present.
 - Be sure to dress appropriately. No shorts, flip flops, slippers, halter or low cut tops, tight or short skirts/dresses.
 - All parties must maintain the utmost respect for the Court and each other at all times.
 - The Court will not tolerate emotional outburst. If you disagree with the Judge's decision, refrain from yelling, cursing, or making rude, threatening or other inappropriate comments.
- CAUTION:** The Judge can hold you in contempt of court for inappropriate actions or words, and you could be find and/or incarcerated.

**SELF-HELP PACKET FOR PETITION TO MODIFY CUSTODY OR VISITATION
AND OTHER RELIEF**

If paternity of the minor child(ren) has been previously established by the Court or if a Final Judgment of Dissolution of Marriage has been entered by the Court AND a substantial change in circumstances has occurred, you may file a **Supplemental Petition to Modify Custody or Visitation and Other Relief**. Filing fees, fees for service by the Sheriff's Office and other costs are involved in this action. If you cannot afford these fees, you may qualify for a payment plan for filing fees only. You must request a **Civil Affidavit/Application for Indigent Status** from the **Clerk of Court** and file it along with a **Civil Partial Payment agreement**. Based upon these documents, the Clerk of Court will determine if you meet the criteria for indigency. If you meet the criteria, a Determination of Indigent Status will be provided to you and the Clerk will determine the Partial Payment Agreement for the filing fee.

Please read the General Information for Self-Represented Litigants in the front of your packet before proceeding. You cannot be given a hearing date until all required forms have been filed with the Clerk of Court and all allowed time periods for filing information have passed.

Definitions:

Petitioner: Individual making a written request
Respondent: Individual receiving or answering written request

- **You must have the respondent's current home or employment address to be able to serve him/her with your pleadings.**
- **You must get your case number and division number from the Clerk of Court and write it on the front of each document you file.**

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 Santa Rosa County Clerk of Court, Domestic Relations Division, located at the Santa Rosa County Courthouse, 6865 S.W. Caroline Street, Milton, Florida (850) 981-5552 or can be downloaded from the internet at www.flcourts.org.

INFORMATION AND DOCUMENTS TO BE FILED (YOU MAY WANT TO USE THIS AS A CHECKLIST)

1. _____ Form 12.905(a) **Supplemental Petition to Modify Custody or Visitation and Other Relief**
2. _____ **Notice and acknowledgment of Limitation of Services Provided** (must be filed with the petition)
3. _____ Form 12.903(a) **Answer, Waiver and Request for Copy of Final Judgment of Dissolution of Marriage**. This may be used by the respondent if he/she agrees to the petition. If not, he/she may obtain and file an Answer or Answer and Counter-petition.
4. _____ Form 12.902(b) **Individual Income under \$50,000** or 12.902(c) **Individual Income over \$50,000. Family Law Financial Affidavit** (need two (2) – one from each party). NOTE: The Financial Affidavits for income under \$50,000 are in this packet. If your income is over \$50,000 you will need to obtain the Financial Affidavit for Income over \$50,000.
5. _____ Form 12.932 **Certificate of Compliance with Mandatory Disclosure** (need two (2) – one from each party) or **Agreement to Waive Mandatory Disclosure** (if the parties agree with the Financial Affidavits and require no other financial documentation)

6. _____ Form 12.902(j) **Notice of Social Security Number** (need two (2) – one from each party)
7. _____ Form 12.902(i) **Affidavit of Corroborating Witness**. At least one party must file the Affidavit to establish residency in the state of Florida for at least six (6) months prior to the date the petition is filed.
8. _____ Form 12.910(a) **Summons** and Form 12.910(b) **Process Service Memorandum or Acceptance and Waiver of Service of Process of Summons** (when the parties agree to waive service). The Summons is not provided in the packet. The Clerk of Court will prepare the Summons for you.
9. _____ If anyone other than a Lawyer helps you to complete any of the forms, you must file Form 12.900(a) **Disclosure from Non-Lawyer**
10. _____ Notice of Permanent Mailing Address (need two (2) – one from each party)
11. _____ Form 12.993(a) **Supplemental Final Judgment Modifying Parental Responsibility/Visitation**. **THE FINAL JUDGMENT MUST BE TYPED NEATLY AND ACCURATELY FOR THE JUDGE'S SIGNATURE.**
12. _____ **Waiver of Personal Appearance on Supplemental Petition to Modify Custody or Visitation and Other Relief**. Only court staff can determine if you are eligible to proceed without a hearing. You will be informed on this after you have filed your Request for Hearing/Trial.
13. _____ **Memorandum to Clerk**. (To be filed if alimony is to be ordered. Complete all information on this form except the payment information).

What if the parties agree to everything?

If the parties are in agreement, the respondent may waive service by the Sheriff by signing an Acceptance and Waiver of Service of Process of Summons per item number 9 above. The Agreement to Waive Mandatory Disclosure, Form 12.932 may also be filed if the parties are in agreement with financial information provided in the Financial Affidavit that each has filed and do not require additional documentation per item number 5 above.

Where do I file the forms?

Once you have completed the Petition for Dissolution and other required documents (forms 1-13 above) you must file the originals with the Clerk of Court, Domestic Relations Division, located at the Santa Rosa County Courthouse, 6865 S.W. Caroline Street, Milton, Florida (850) 981-5552. Keep a copy for your records.

What do I do after I have filed?

If service is needed, the Clerk will issue the Summons along with attachments to the other party. You may also want to attach a blank Financial Affidavit and Notice of Social Security Number to the Summons for the respondent to complete. The Summons informs the respondent that he/she will have 20 days to respond to your petition. If the respondent lives in Santa Rosa County, take the Summons with attachments to the Santa Rosa County Sheriff's Office Civil Division for service of process on the respondent. The Sheriff's Office will send a Return of Service to you and/or to the Clerk of Court, stating whether the respondent was or was not served. If the respondent lives in another county, he/she must be served by the Sheriff's Office or a certified process server in that county and Return of Service will be sent to you and you will have to file it with the Clerk of Court.

What if I want to stop the process or withdraw the petition?

If you decide not to pursue the petition and want to dismiss it, you can file form 12.927 Notice of Voluntary Dismissal with the Clerk of Court.

What if the Respondent does not answer or file the necessary forms?

Once the Respondent has been served or waived service, he/she will have 20 days to file an Answer to the Petition of Dissolution of Marriage or an Answer and Counter-Petition. If a Counter-Petition is filed, you may then file Form 12.903(d) **Answer to the Counter-Petition**. If the respondent fails to answer your original petition within the 20 days allowed, you must file Form 2.922(a) **Motion for Default** and Form 12.912(b) **Nonmilitary Affidavit** (if you are certain the other party is not in the military). This requests that the court allow you to proceed to a final hearing date. If he/she responds but fails to file the necessary documents within the 45 days allowed (e.g. financial affidavit, mandatory disclosure, etc.) or attend the required parenting course, you may file a **Motion to Compel** to ask the court to require him/her to file the forms and/or attend the course. If you have used constructive service, you may also have to request a waiver of financial documents with a Request to Waive form.

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

If you have no way of locating the respondent or he/she lives out of state and cannot be served with the Petition for Dissolution of Marriage, 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 the following with the Clerk: For 12.913(a) **Notice of Action for Dissolution of Marriage** and Form 12.913 (b) **Affidavit of Diligent Search and Inquiry**. The Notice 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 (you may ask the Clerk or Pro Se staff for further instructions). 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 we want to establish child support different from the guidelines worksheet?

If you want the Court to consider child support that is different than what is established by the child support guidelines worksheet, you may file Form 12.943 **Motion to Deviate from Child Support Guidelines**.

How do I get a hearing date?

When all the requirements have been met, file your **Request for Hearing** with the Clerk of Court. Your case will be reviewed and a Case Status Report will be provided to you giving you a hearing date or further instructions. The pro Se Coordinator may be reached at (850) 981-5588, located at the Santa Rosa County Courthouse.

If you are a person with a disability who needs any accommodations in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact: Court Administration, ADA Liaison, Santa Rosa County, 6865 Caroline Street, Milton, Florida 32570 Phone (850) 623-3159 Fax (850) 983-0602 , ADA.SantaRosa@flcourts1.gov 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.