

STEP BY STEP INSTRUCTIONS FOR TEMPORARY CUSTODY

The following instructions will guide you in the process of seeking temporary custody of a minor child. Please read them carefully and completely before beginning to complete the documents in the packet.

If you are a relative or a stepparent caring for a minor child and/or the minor child is living with you, you may use this packet to request the court enter an order awarding you temporary custody of the minor child.

A relative is classified as a Great-Grandparent, Grandparent, Uncle, Aunt, Brother, Sister, Nephew or Niece.

A stepparent may only use this packet 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 child's parents as an adverse party.

Please note that this packet contains additional blank copies of several documents that may be used by the natural parents to respond to your Petition.

If you are a natural parent, you may not use this packet.

This is a step by step checklist with some explanations to guide you, from filing your petition to the signing of the final order.

1. **Notice of Limitation of Services Provided:** Read this document carefully and sign the Acknowledgment at the bottom. File it with the Clerk of Court when you file your Petition.
2. **Petition:** You are the Petitioner in the interest of the minor child. Complete the Petition, filling in the blank lines with the information requested. You must sign your Petition in front of a notary who will also sign on the line designated for the notary. You will file the Petition with the Clerk of Court in the county where you live.
3. **Civil Cover Sheet:** Complete the Civil Cover Sheet and file it with your petition. The clerk will fill in the case number at the time you file your petition. Check the type of case as "Other."
4. **Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) Affidavit:** Complete this affidavit and sign it in front of the notary. This affidavit must be filed with your Petition.
5. **Notice of Related Cases:** Complete this form, filling in the blank lines with the information requested. You will need to sign the last page and file it with your Petition.
6. **Summons:** If the natural parent(s) are not willing to sign the waiver and consent, you must have the sheriff, or a private process server, serve the natural parent(s) with a summons and a copy of the Petition. There are two blank summonses in this packet, one for the natural mother and one for the natural father.
7. **Memo to Sheriff:** This document is used to inform the sheriff, or private process server, of the addresses of the person(s) to be served with the summons. It must accompany each summons when it is delivered to the Sheriff or Process Server.

8. **Waiver of Service and Consent:** This document is to be completed by the natural parent(s) if they agree to the transfer of temporary legal custody of the child(ren).
9. Make **three copies** of all the above documents. One set of copies is for you to keep. The remaining two sets are for the natural parents. The original must be filed with the Clerk of the Court along with six (6) stamped envelopes.
10. Take the original of all the documents to the Clerk of the Court in the county where you live. The addresses of the Clerks of Court for the four counties in the Nineteenth Circuit are shown below.

<u>Indian River</u>	<u>Martin</u>	<u>Okeechobee</u>	<u>St. Lucie</u>
2000 16th Avenue	100 East Ocean Blvd.	304 NW 2nd Street	201 S Indian River Drive
Family Services	Family Services	Family Services	Family
Relations			
Indian River County Crthouse	Martin County Crthouse	Okeechobee Crthouse	St. Lucie Crthouse
Vero Beach, FL 32960	Stuart, FL 32994	Okeechobee, FL 34972	Ft. Pierce, FL 34950

11. The Clerk will open your court file and give it a case number. The Clerk also will issue and return the original summons(es) to you along with a copy for each natural parent to be served. Take these, along with the copies of the documents that you have made for the parents, to the Sheriff's Office or to a private process server to be served on the natural parent(s). The Sheriff's civil division in the Nineteenth Circuit currently charges \$40.00 for service. If you are serving outside the Nineteenth Circuit, you will need to contact the Sheriff or private process server in the county where the person(s) to be served lives or works. They will instruct you where to send your documents for service and tell you their fees.
12. After the petition has been served on the parent(s), the process server will issue a document indicating when and where the parent(s) were served. This is called a **Return of Service**. When you receive this Return of Service and the attached original summons back from the process server, file both documents with the Clerk of Court as proof that the parent(s) were served. Make and keep a copy for your records.
13. The parent(s) have twenty-five (25) days to respond to the petition from the first full day after he or she receives the summons. If the parent(s) respond within twenty-five days by filing the Answer to Petition for Temporary Custody and filing separate signed Consent(s), then follow the procedure in Paragraph 17 below to obtain a hearing date.
 *(Twenty days is the response time and the Clerk of the Court has to allow five days for mailing)
14. If twenty-five days have passed and the parent(s) have not responded (do not count the day of service), then complete the **Request to Enter Default** and **Non-military Affidavit** and deliver it to the Clerk of Court. Make and keep a copy of both documents for your records.

 The Clerk of Court will sign the **Default** form to officially declare the parent(s) to be in default. After the Default is completed by the Clerk, follow the procedure in Paragraph 17 below to obtain a hearing date.
15. If one or both natural parents respond by filing Answer(s) but do not agree to temporary legal custody being placed with a relative, OR if one or both natural parents respond by filing Answer(s) but have not signed Consent(s), you will need to file the **Notice for Trial** form with

the Clerk of Court and follow the procedures in Paragraph 17 below to obtain a court date.

16. **Requesting a Date for Final Hearing or Trial:** In order to obtain a date for your case to be heard by the judge, you should bring six (6) stamped envelopes to the Clerk of Court. Tell the Clerk that you are requesting a hearing date for your case. The Clerk will forward the file and envelopes to the Self-Help Case Manager who will schedule your hearing. You will then be notified of your hearing date and time by mail. Please allow approximately (6) weeks for the order scheduling your hearing to come to you once all necessary documents have been filed.
17. Arrive at the Courthouse at least 15 minutes before the time of your scheduled hearing. Bring with you a copy of all documents you have filed with the court and documents sent to the parent(s).
18. At the final hearing, you will be allowed to present evidence and the parent(s), if in attendance, will be also allowed to present evidence. At the end of the final hearing, the judge will either award temporary legal custody to you or tell you if there is a problem with your case and what that problem is. In most cases, the Judge cannot tell you how to solve the problem.
19. If you cannot locate one or both of the natural parents, the packet contains documents that can be used to serve the natural parent(s) by publishing a notice in the local newspaper. This is called constructive service or service by publication. You will need to complete what is called a diligent search for the natural parent(s) and keep a log of your contacts and results of the search. Complete the **Affidavit of Diligent Search** and attach the log. Complete the **Notice of Action** and bring it to the Clerk when you file your Petition. The Clerk will sign and seal it, and then you will need to take it to the newspaper for publication. The newspaper will publish the notice of your legal action for 4 consecutive weeks and then mail a **Proof of Publication** to your home address. You must file the Proof of Publication with the Clerk of Court. If no Answer is received in response to the published notice of legal action, you may proceed with the Default procedure outlined in Paragraph 15 above.