# Supreme Court of Florida

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No. SC02-516

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## AMENDMENTS TO FLORIDA SUPREME COURT APPROVED FAMILY LAW FORMS.-STEPPARENT ADOPTION FORMS.

[October 3, 2002]

PER CURIAM.

In our opinion dated March 28, 2002, <u>Amendments to Florida Supreme</u>

<u>Court Approved Family Law Forms--Stepparent Adoption Forms</u>, 821 So. 2d 263

(Fla. 2002), we adopted amendments to the stepparent adoption forms that were necessary due to legislation. We gave interested parties an opportunity to comment on the amendments and we received comments, which we carefully considered, from the Honorable John C. Lenderman, Circuit Judge, Sixth Judicial Circuit, attorney Nancy C. Holliday-Fields, Third Judicial Circuit, and attorney Jeanne Tate on behalf of the Florida Adoption Council.

We have jurisdiction. <u>See</u> art. V, § 2(a), Fla. Const. We have considered the comments and adopt many of the suggestions therein, including an amendment

to the instructions for form 12.981(b)(1), clearly indicating that the adopting stepparent will continue to have rights, including visitation and custody, where appropriate, should the natural parent and adopting stepparent later divorce. Further, we have changed language in form 12.981(a)(5), subdivision 4, from "address or location" to "current residence." We also have eliminated the requirement in form 12.981(a)(6) that required a sworn statement. With regard to several comments received, we conclude that those comments address subdivisions in the forms that are based on statutory requirements and, thus, we are unable to change those subdivisions without changes in the statutes.

Florida Supreme Court Approved Family Law Forms (stepparent adoption forms) 12.981(a)(2), 12.981(a)(5), 12.981(a)(6), 12.981(a)(7), 12.981(b)(1), and 12.981(c)(1) are amended as set forth in the appendix to this opinion, effective for immediate use. Florida Supreme Court Approved Family Law Form 12.981(a)(8), Indian Child Welfare Act Affidavit, is adopted as set forth in the appendix to this opinion, effective for immediate use. We make no changes to the remainder of the Florida Supreme Court Approved Family Law Forms (stepparent adoption forms) that were adopted in our opinion dated March 28, 2002.

We express no opinion as to the correctness or applicability of these forms, or on the substance of the legislation. This opinion and the forms may be accessed and downloaded from this Court's website at <a href="www.flcourts.org">www.flcourts.org</a>.

It is so ordered.

ANSTEAD, C.J., SHAW, WELLS, PARIENTE, LEWIS, and QUINCE, JJ., and HARDING, Senior Justice, concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDED FORMS.

Original Proceeding - Florida Supreme Court Approved Family Law Forms

Honorable John C. Lenderman, Circuit Judge, Sixth Judicial Circuit, St. Petersburg, Florida; Nancy C. Holliday-Fields, Attorney, Third Judicial Circuit, Lake City, Florida; and Jeanne Tate, President, The Florida Adoption Council, Tampa, Florida,

Responding

### INSTRUCTIONS FOR FLORIDA SUPREME COURT APPROVED FAMILY LAW FORM 12.981(a)(2).

### TERMINATION OF PARENTAL RIGHTS PENDING STEPPARENT ADOPTION: CONSENT AND WAIVER BY PARENT

#### When should this form be used?

This form is to be completed and signed by the parent who is giving up all rights to and custody of the minor child to be adopted. This consent shall not be executed before the birth of the minor child.

This form should be typed or printed in black ink. It must be signed in the presence of a <u>notary public</u> or <u>deputy clerk</u> and two witnesses other than the notary or clerk. You should <u>file</u> this form with the **Petition** to Terminate Parental Rights Pending Adoption by Stepparent,  $\square$  Florida Supreme Court Approved Family Law Form 12.981(a)(1).

After completing this form, you should file the original with the <u>clerk of the circuit court</u> in the county where the **Petition to Terminate Parental Rights Pending Adoption by Stepparent**,  $\square$  Florida Supreme Court Approved Family Law Form 12.981(a)(1) is filed and keep a copy for your records.

### Special notes...

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 **Disclosure from Nonlawyer**,  $\square$  Florida Family Law Rules of Procedure Form 12.900 (a), before he or she helps you. A nonlawyer helping you fill out these forms also **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 CIR	.CUIT,
	IN AND FOR	COUNTY, FLORIDA	
		Casa Na	
		Case No.:	
		Division:	
IN R	RE: TERMINATION OF PARENTAL RIG	HTS	
PEN	IDING STEPPARENT ADOPTION OF		
	Minor Child(ren).		
	CONSENT AND	WAIVER BY PARENT	
1.	I. {full legal name}	, am the [ $$ one only]	l
		nild(ren) subject to this consent who is/are:	•
	Child's Current Name	Sender Birth date Birthplace	1
		{city, county,	state}
	b		
	d		_
	f		
2.	I relinquish all rights to and custody of thi	s (these) minor child(ren), {name(s)}	
_,		knowledge of the legal effect of the stepparer	
	adoption and consent to the adoption by t	he child(ren)'s stepparent whose name is: [ v	√ one
	only]		
	( ){name}		
	( ) not required for my granting of this c	onsent.	
3.	I understand my legal rights as a parent, I	have read and understand the following Con-	sent
	• • • •	have to sign this consent and release of my 1	
		being given knowingly, freely, and voluntarily	
	•	ot given under fraud or duress. I understand	
		h I may revoke my consent. I understand tha	
		I forever giving up all my parental rights to an	
	in uns (these) minor child(ren). I voluntari	ly, permanently relinquish all my parental righ	us to this

(these) minor child(ren).

### CONSENT DISCLOSURE

This consent is required by Florida Statute to include, (in at least 16-point boldfaced type,) all of the following information. The information in this disclosure may not apply to your particular situation.

You have the right to select at least one person who does not have an employment, professional, or personal relationship with the adoption entity or the prospective adoptive parents to be present when this affidavit is executed and to sign it as a witness. You must acknowledge on this form that you were notified of this right and you must indicate the witness or witnesses you selected, if any. If you are selecting a witness, the witness you select is *{full legal name}* 

You do not have to sign this consent form. You may do any of the following instead of signing this consent or before signing this consent:

- 1. Consult with an attorney;
- 2. Hold, care for, and feed the child;
- 3. Place the child in foster care or with any friend or family member you choose who is willing to care for the child;
- 4. Take the child home unless otherwise legally prohibited; and
- 5. Find out about the community resources that are available to you if you do not go through with the termination of parental rights and adoption.

If you sign this consent, you are giving up all rights to your child. Your consent is valid and binding unless withdrawn as permitted by law. If you are giving up your rights to a child who is to be placed for adoption with identified prospective adoptive parents upon the child's release from a licensed hospital or birth center following birth, a waiting period will be imposed before you may sign the consent for

adoption. You must wait 48 hours from the time of birth, or until the birth mother has been notified in writing, either on her patient chart or in release papers, that she is fit to be released from a licensed hospital or birth center, whichever is sooner, before you may sign the consent for adoption. Once you have signed the consent, it is valid and binding and cannot be withdrawn unless a court finds that it was obtained by fraud or under duress.

If you are giving up your rights to a child who is not placed for adoption upon the child's release from a licensed hospital or birth center following birth, you may sign the consent at any time after the birth of the child. While the consent is valid and binding when signed, you have time to change your mind. This time is called the revocation period. When the revocation period applies, you may withdraw your consent for any reason at any time prior to the placement of the child with the prospective adoptive parents, or if you do it within 3 business days after the date you signed the consent or 1 business day after the date of the birth mother's discharge from a licensed hospital or birth center, whichever is later.

To withdraw your consent during the revocation period, you must:

- 1. Notify the adoption entity, by writing a letter, that you are withdrawing your consent.
- 2. Mail the letter at a United States Post Office within 3 business days after the date you signed the consent or 1 business day after the date of the birth mother's discharge from a licensed hospital or birth center, whichever is later. The term "business day" means any day on which the United States postal service accepts certified mail for delivery.
- 3. Send the letter by certified United States mail with return receipt requested.
- 4. Pay postal costs at the time you mail the letter.
- 5. Keep the certified mail receipt as proof that consent was withdrawn in a timely manner.

Once the revocation period is over, or the child has been placed with the prospective adoptive parents, whichever occurs later, you may not withdraw your consent unless you can prove in court that consent was obtained by fraud or duress.

- 4. I consent, release, and give up permanently, of my own free will, my parental rights to this (these) minor child(ren), for the purpose of stepparent adoption.
- 5. I waive any further notice of the stepparent adoption proceeding.

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this consent and waiver and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Dated:	
	Signature of Parent
	Printed Name:
	Address:
	City, State, Zip:
	Telephone Number:
	Fax Number:
Signature of Witness	Signature of Witness
Printed Name:	Printed Name:
Business Address:	Business Address:
Home Address:	Home Address:
Driver's License or	Driver's License or
State ID Card No.:	State ID Card No.:
State ID Cara No	
STATE OF FLORIDA	
COUNTY OF	
Sworn to or affirmed and signed before me on a	{date} at {time}
Ç	· /———
	NOTARY PUBLIC or DEPUTY CLERK
	[Print, type, or stamp commissioned name of notary or deputy clerk.]
Personally known	
Produced identification	
I Toddeed Identification	

Type of identification produced	
I hereby acknowledge receipt of a copy	of this executed Consent and Waiver.
	Signature of Parent
IF A NONLAWYER HELPED YOU FILL OUT	THIS FORM HE/SHE MUST FILL IN THE
BLANKS BELOW: [ \subseteq fill in all blanks]	
I, full legal name and trade name of nonlawyers	)
a nonlawyer, located at {street}	
	, helped {name}
fill out this form.	

### INSTRUCTIONS FOR FLORIDA SUPREME COURT APPROVED FAMILY LAW FORM 12.981(a)(5).

### TERMINATION OF PARENTAL RIGHTS PENDING STEPPARENT ADOPTION: AFFIDAVIT OF DILIGENT SEARCH

### When should this form be used?

Use this form to obtain **constructive service** (also called service by publication) in a case to terminate parental rights pending stepparent adoption, **Petition to Terminate Parental Rights Pending Adoption by Stepparent,** Telorida Supreme Court Approved Family Law Form 12.981(a)(1), when any required consent is unavailable because the address or location of the person whose consent is required is not known and cannot be determined.

This form includes a checklist of places you must look for information on the location of the person whose rights you seek to terminate. You do have to look in all of these places, and the court must believe that you have made a very serious effort to get information about the person's location and that you have followed up on any information you received.

This form should be typed or printed in black ink. After completing this form, you should <u>file</u> the original with the <u>clerk of the circuit court</u> in the county where your <u>petition</u> was filed and keep a copy for your records.

#### 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. For further information, see rule 12.070, Florida Family Law Rules of Procedure and Rule 1.070, Florida Rules of Civil Procedure.

### Special notes...

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**,  $\square$  Florida Family Law Rules of Procedure Form 12.900 (a), before he or she helps you. A nonlawyer helping you fill out these forms also **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	N THE CIRCUIT COURT OF THE		JUDICIAL	CIRCUIT,	
IN AND FOR		Co	OUNTY, FLORIDA		
		Case No :			
IN R	E: TERMINATION OF				
	ENTAL RIGHTS PENDING				
STE	PPARENT ADOPTION OF				
	,				
	Minor Child(ren).				
7	TERMINATION OF PARENTAL RIG AFFIDAVIT OF	HTS PENDING S' DILIGENT SEA		PTION:	
follo	I, {full legal name}wing information is true:		, being sworn, cert	ify that the	
1.	I am the child(ren)'s ( ) mother ( ) fa	ther.			
2.	The last known address of the child(ren)	s other parent {nan	ne}		
	as of {date}	, was:			
	Address	City	State	Zip	
	Telephone No.	Fax	No.		
	His/her last known employment, as of {date}, was:				
	Name of Employer				
	Address	City	State	Zip	
	Telephone No.	Fax	No.		
3.	The other parent is over the age of 18.				
4.	The other parent's current residence is no	t known and cannot l	be determined, althoug	h I have made	
	a diligent search and inquiry to locate him	_	_		
	You must search ALL of the followin	_			
	United States Post Office inquiry through the Freedom of Information Act for the person's current address on any previous address.				
	address or any previous address.  Result of search:				
	Last known employment of the other pare	ent, including name	and address of employ	er. Addresses	
	to which W-2 Forms or other wage and e	arning statements we	re mailed, and, if a per	nsion or profit	
	sharing plan exists, then to what address	any pension or plan	payment is to be mail	ed. Result o	

	search:	
	parent last resided. Result of search: _	ional or occupational licensing, in the area where the other
	Names and addresses of relatives to the	e extent such can be reasonably obtained from the petitioner
	or other sources, contacts with those	e relatives and inquiry as to the other parent's last known
	address. You are to follow up any lead	ds of any addresses where the other parent may have moved.
	Relatives include, but are not limited t	to: parents, brothers, sisters, aunts, uncles, cousins, nieces,
	nephews, grandparents, great-grandpar	rents, former or current in-laws, stepparents, and stepchildren.
	Result of search:	
	Information about the other parent's po	ssible death and, if dead, the date and location.
	Telephone listings in the area where the	e other parent last resided.
	Result of search:	
	Law enforcement agencies in the area v	
	Result of search:	
	Highway Patrol records in the state who	ere the other parent last resided.
	Result of search:	
	Department of Corrections records in the	he state where the other parent last resided.
	Result of search:	
	Hospitals in the last known area of the	other parent's residence.
	Result of search:	
	• •	nclude water, sewer, cable TV, and electric in the last known
	area of the other parent's residence.	
	Result of search:	
	Records of the Armed Forces of the	U.S. and their response as to whether or not there is any
	-	(See Florida Supreme Court Approved Family Law Form
	12.912(a), Memorandum for Certificate	
	Result of search:	
		collector's office in the area where the other parent last
	resided. Result of search:	
	Search of one Internet databank locator	
	Result of search:	
	child, including the identity and location financially responsible for the uninsure	ers who rendered medical treatment or care to the mother and on information of all persons listed by the mother as being ed expenses of treatment or care and all persons who made
	Title IV-D (child support enforcement)	agency records in the state of the other parent's last known
		r affirming under oath to the truthfulness of the claims
		ent for knowingly making a false statement includes fines
and/or	r imprisonment.	
Dated:		
		Signature of Petitioner
		Printed Name:
		Address:
		City, State, Zip:
		Telephone Number:

	Fax Number:
STATE OF FLORIDA COUNTY OF	
Sworn to or affirmed and signed before me on _	by
	NOTARY PUBLIC or DEPUTY CLERK
Personally known Produced identification Type of identification produced	[Print, type, or stamp commissioned name of notary or deputy clerk.]
<b>BLANKS BELOW:</b> [ \( \sigma \) fill in <b>all</b> blanks]  I, \( \{ full legal name and trade name of nonlawyer \)	OUT THIS FORM, HE/SHE MUST FILL IN THE
(state), {phone} who is the petitioner, fill out this form.	

### INSTRUCTIONS FOR FLORIDA SUPREME COURT APPROVED FAMILY LAW FORM 12.981(a)(6),

### NOTICE OF PETITION TO TERMINATE PARENTAL RIGHTS PENDING STEPPARENT ADOPTION AND NOTICE OF HEARING

#### When should this form be used?

For each person whose written consent is required, who has not executed an affidavit of nonpaternity, and whose location and identity is known, you must notify him or her of this proceeding. Additionally, this form should be used to notify those persons whose consent is required and who have not properly consented.

This form should be typed or printed inblack ink. You should then <u>file</u> the original and 1 copy with the <u>clerk of the circuit court</u> in the county where the **Petition to Terminate Parental Rights Pending**Stepparent Adoption Terminate Parental Rights Pending

Stepparent Parental Rights Pending

St

• anyone from whom consent is required who has not executed an affidavit of nonpaternity, whose location and identity have been determined.

If you absolutely cannot find an address or location for the parent, you may use **constructive service**. For more information about personal and constructive service, you should refer the "General Instructions for Self-Represented Litigants" found at the beginning of these forms and the instructions to Summons: **Personal Service on an Individual**,  $\square$  Florida Family Law Rules of Procedure Forms 12.910(a) and Affidavit of Diligent Search,  $\square$  Florida Supreme Court Approved Family Law Form 12.981(a)(5). However, the law regarding constructive service is very complex and you may wish to consult an attorney regarding that issue.

#### 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. See chapter 63, Florida Statutes, and Florida Family Law Rule 12.200(a)(2) for further information.

### Special notes...

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 also **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 RE: TERMINATION OF PARENTAL RIGHTS PENDING STEPPARENT ADOPTION OF	
Minor Child(ren).	
NOTICE OF PETITION TO TELESTEPPARENT ADOPTION AND NOT	RMINATE PARENTAL RIGHTS PENDING ICE OF HEARING
the petition is being served with this notice.	s pending adoption by stepparent has been filed. A copy of There will be a hearing on the Petition to terminate parental Judge {name},,
right to request that the hearing on the petition	ffidavit of nonpaternity and a waiver of venue, you have the n to terminate parental rights be transferred to the county in ing at the hearing or filing a written objection with the court.
RESPONSE TO THIS NOTICE WITH	A STATUTES, FAILURE TO FILE A WRITTEN THE COURT OR TO APPEAR AT THIS HEARING IICH THE COURT SHALL END ANY PARENTAL NG THE MINOR CHILD.
court:  If you are a person with a disability who no proceeding, you are entitled, at no cost to y	to be filled in with information you obtained from the eeds any accommodation in order to participate in this ou, to the provision of certain assistance. Please contact
{name}{address}	
within 2 working days of your receipt of this I TDD 1-800-955-8771.	
	Signature of Party Printed Name:
	Address:City, State, Zip:
	Telephone Number:

Fax Nu	ımber:
IF A NONLAWYER HELPED YOU FILL OUT BLANKS BELOW: [ ≠ fill in all blanks]	THIS FORM, HE/SHE MUST FILL IN THE
I, {full legal name and trade name of nonlawyer} _	
a nonlawyer, located at {street}	
{state}, {phone} who is the petitioner, fill out this form.	, helped {name},

I	N THE CIRCUIT COURT OF THE IN AND FOR	COUNT	JUDICIAL CIRCUIT, 'Y. FLORIDA
		Case No.:	
RIG	RE: TERMINATION OF PARENTAL HTS PENDING STEPPARENT OPTION OF	Division:	
	Minor Child(ren).		
	NAL JUDGMENT TERMINATING PARE OPTION	NTAL RIGHTS PE	ENDING STEPPARENT
and 1	Upon consideration of the Petition for Termina the evidence presented, the Court finds by clear a	•	
1.	The Court has subject matter jurisdiction ov Pending Stepparent Adoption.	er the Petition for Te	rmination of Parental Rights
2.	The Court has jurisdiction over the minor chil {date(s) of birth}	d(ren), {name(s)}	,
3.	The () mother () father was served with	th or waived notice of	this action.
4.	The parent's parental rights should be termina $[\sqrt{\mathbf{all}}]$ that apply		
	a. Each person whose consent is required withdrawn.	d has executed a vali	d consent that has not been
	<ul><li>b. The person whose consent is required ha</li><li>c. The birth parent abandoned the child(ren</li></ul>	a) as defined in s. 63.0	32.
	d. The parent has been declared incapacita	•	
	medically improbable. A copy of the order have e. The legal guardian or lawful custodian of		
	to respond in writing to a request for consenwithholding consent are unreasonable.	-	·
	f. The person to be adopted is married. The consent and the failure of the spouse to consequence unexplained absence, unavailability, incapacity withholding of consent. {Explain}:	nt to the adoption is ex y, or another circumsta	cused because of prolonged, nee constituting unreasonable
	g. The birth parent died on {date}	, in	County, {state}
5.	{This space is included for the judge to include	e specific findings of f	Cact}

_	
_	
N	OW, THEREFORE, IT IS ORDERED that:
	Il legal relations between the child(ren) and the noncustodial parent,
	his court retains jurisdiction over the subject matter and over the minor child(ren) until a final adaption depends on the stepparent adoption.
C	RDERED on
	CIRCUIT JUDGE

# INSTRUCTIONS FOR FLORIDA SUPREME COURT APPROVED FAMILY LAW FORM 12.981(a)(8), INDIAN CHILD WELFARE ACT AFFIDAVIT

#### When should this form be used?

This form should be used in cases involving termination of parental rights pending stepparent adoption of a child. This **affidavit** is **required**.

This form should be typed or printed in black ink. After completing this form, you should sign the form before a <u>notary public</u> or <u>deputy clerk</u>. You should then <u>file</u> the original with the <u>clerk of the circuit</u> <u>court</u> in the county where the petition was filed and keep a copy for your records.

#### What should I do next?

A copy of this form must be mailed or hand delivered to the other party in your case, if it is not served on him or her with your initial papers.

### 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.

### Special notes...

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 also **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:
Petitioner,	
and	
Respondent.	
INDIAN CHILD	WELFARE ACT AFFIDAVIT
I, {full legal name}are true:	, being sworn, certify that the following statements
1. Upon information and belief the child <b>one</b> only]	[ $\sqrt{name}$ subject to this proceeding: [ $\sqrt{name}$
is not an Indian child. The Indian Ch	nild Welfare Act does not apply to this proceeding.
is an Indian child within the meaning et seq.).	of the Indian Child Welfare Act of 1978 (25 U.S.C. §1901
	t was [ $$ one only] ( ) mailed ( ) faxed and mailed ( ) on $\{date\}$
Other party or his/her attorney:	
Name:Address:	
City, State, Zip:	
Fax Number:	
9	or affirming underoath to the truthfulness of the claims ment for knowingly making a false statement includes
Dated:	
	Signature of Party Printed Name:
	Address:
	City, State, Zip: Telephone Number:
	Fax Number: