

Case No: _____

CHECKLIST FOR PETITION FOR TEMPORARY OR CONCURRENT CUSTODY

I. PETITIONER QUALIFICATIONS:

___ A. Petitioner must be:

___ 1. An extended family member who has the signed, notarized consent of the child's legal parents. *See* § 751.02(1)(a).

- OR -

___ 2. An extended family member caring full time for the child and with whom the child is presently living. *See* § 751.02(1)(b).

___ B. If filing for concurrent custody, Petitioner must also:

___ 1. Currently have physical custody of the child and have had physical custody of the child for at least 10 days in any 30-day period within the last 12 months; *See* § 751.02(2)(a).

- AND -

___ 2. Not have signed, written document from a parent sufficient to enable the custodian to do all of the things necessary to care for the child which are available to custodians who have an order issued under section 751.05, Florida Statutes. *See* § 751.02(2)(b).

___ C. Extended family members include:

___ 1. A family member within the 3rd degree from the child, (brother, sister, grandparent, aunt, uncle, cousin, great grandparent, great aunt, great uncle). *See* § 751.011.

- OR -

___ 2. A stepparent currently married to the parent of the child and not a party to any lawsuit currently pending in any court involving one or both of the child's parents as an adverse party. *See* § 751.011.

- OR -

___ 3. An individual who qualifies as "fictive kin" which means as "a person unrelated by birth, marriage, or adoption who has an emotionally significant relationship, which possesses the characteristics of a family relationship, to the child." *See* § 751.011; § 39.01.

II. THE PETITION:

___ A. Petitions for custody are styled "In the Interest of ..., a minor child(ren)."

NOTE: It is acceptable if the child is referred to by his or her initials throughout the Petition.
See Fla. R. Jud. Admin. 2.425.

___ B. The petition must be signed and verified and state the following:

- ___ 1. The name, date of birth, and current address of the child.
- ___ 2. The names and current addresses of the child's parents.
- ___ 3. The names and current addresses of the persons with whom the child has lived during the past 5 years.
- ___ 4. The places where the child has lived during the past 5 years.
- ___ 5. Information concerning any custody proceeding in this or any other state with respect to the child.
- ___ 6. The residence and post office address of the petitioner.
- ___ 7. The petitioner's relationship to the child.
- ___ 8. Any temporary or permanent orders for child support, the court entering the order, and the case number, if any.
- ___ 9. Any temporary or permanent orders for protection entered on behalf of or against either the petitioner, or the child, the court entering the order, and the case number.
- ___ 10. A statement that it is in the best interest of the child for the petitioner to have custody.
- ___ 11. A statement of the period of time the petitioner is requesting temporary custody, and a statement of the reasons supporting that request.
- ___ 12. A statement as to any other provisions that are related to the best interest of the child, including, but not limited to, a reasonable plan for transitioning custody.

See § 751.03(1-14) and Florida Family Law Form 12.970(a).

___ C. If concurrent custody is being requested, the petition must also state:

- ___ 1. The time periods during the last 12 months that the child lived with the petitioner;
- ___ 2. The type of document, if any, provided by the parent(s) to enable the petitioner to act on behalf of the child;
- ___ 3. The services or actions that the petitioner is unable to obtain or undertake without an order of custody; AND
- ___ 4. Whether each parent has consented in writing to the entry of an order of concurrent custody.

See § 751.03(8).

___ D. If temporary custody is being requested, the petition must also state:

- ___ 1. Include the consent of the child's parents; or
- ___ 2. State the specific acts or omissions of the parents which demonstrate that the parents have abused, abandoned, or neglected the child as defined in Chapter 39.

See § 751.03(9).

III. ATTACHMENTS TO THE PETITION:

- ___ A. The birth parents' consent to the temporary or concurrent custody, and any documents that enable the petitioner to act on behalf of the child.

The consent should substantially follow the form of Florida Family Law Forms 12.970(c) or (d).

- ___ B. **If consent has NOT been provided**, notice (personal or constructive) must be given to the parents. *See* § 751.04.

- ___ 1. Proof of Service;

- OR -

- ___ 2. Affidavit of Diligent Search and Inquiry and proof of publication. *See* Florida Family Law Form 12.913(c) and Family Law Rule 12.070. All search inquiries must be conducted on the Affidavit of Diligent Search.

- ___ C. **If one of the parents of the child is deceased**, a certified copy of the death certificate.

- ___ D. **If either parent files an answer and objects to a temporary custody petition**, a hearing must be set for the court to determine whether the child's parents are unfit to provide for the care and control of the child. The court must find that the parent has abused, abandoned, or neglected the child as defined in Chapter 39. § 751.05(3)(b).

If a parent objects to a concurrent custody petition, the petitioner has the option of converting the petition to a petition for temporary custody. § 751.05(3)(a).

- ___ E. A copy of the child's birth certificate.

- ___ F. A Uniform Child Custody Jurisdiction and Enforcement Act Affidavit. *See* § 61.503(3) and § 61.522. *See also* Florida Family Law Form 12.902(d).

- ___ G. **If an order was granted by another court** in this, or any other state, concerning the custody of the child, that order must be attached to the petition.

- ___ H. A Notice of Related Cases Form. *See* Florida Family Law Form 12.900(h).

- ___ I. A Family Court Cover Sheet. *See* Florida Family Law Form 12.928.

- ___ J. If obtaining a **default** on petitions that have been served, a **Non-Military Affidavit**. *See* Florida Family Law Form 12.912(b). If petitioner knows or does not know whether the parent is on active duty, petitioner must file a **Memorandum for Certificate of Military Service**. *See* Florida Family Law Form 12.912(a).

- ___ K. **If a non-lawyer helps the petitioner complete the forms**, that person must provide a copy of a Disclosure from Nonlawyer. *See* Florida Family Law Form 12.900(a).