

Supreme Court of Florida

No. SC18-698

IN RE: AMENDMENTS TO THE FLORIDA SUPREME COURT APPROVED FAMILY LAW FORMS—12.951(a) AND (b).

[June 21, 2018]

PER CURIAM.

Pursuant to the procedures approved in *Amendments to the Florida Family Law Rules of Procedure & Family Law Forms*, 810 So. 2d 1, 13-14 (Fla. 2000), this Court has internally reviewed the Florida Supreme Court Approved Family Law Forms and has decided that amendments to two existing forms are needed. *See* Fla. R. Jud. Admin. 2.140(d). Input was received from the Advisory Workgroup on the Florida Supreme Court Approved Family Law Forms, which provided valuable assistance. We have jurisdiction,¹ and amend forms 12.951(a) (Petition to Disestablish Paternity and/or Terminate Child Support Obligation) and

1. *See* art. V, § 2(a), Fla. Const.

(b) (Order Disestablishing Paternity and/or Terminating Child Support Obligation)
as follows.

First, we amend the caption to form 12.951(a) to reflect that the form is a petition for disestablishment of paternity, in accordance with Florida Family Law Rule of Procedure 12.100(c)(1)(D)(iv). Next, in form 12.951(b), we replace several instances of “mother” with “the other parent” so that the form will be appropriate for use in cases with both same-sex and opposite-sex parents, following the United States Supreme Court’s decision in *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015).

The amended forms are hereby adopted as set forth in the appendix to this opinion, fully engrossed. The amendments to the forms shall become effective immediately upon the release of this opinion and may be accessed and downloaded from the Florida State Court’s website at <http://www.flcourts.org/resources-and-services/court-improvement/family-courts/family-law-forms.stml>. By adoption of the amended forms, we express no opinion as to their correctness or applicability. We also direct that the amended forms be published for comment. Interested persons shall have sixty days from the date of this opinion to file comments with the Court.²

2. All comments must be filed with the Court on or before August 20, 2018, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. If

It is so ordered.

LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, POLSTON,
and LAWSON, JJ., concur.

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

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filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Florida Courts E-Filing Portal (Portal) in accordance with *In re Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal*, Fla. Admin. Order No. AOSC13-7 (Feb. 18, 2013). If filed by a nonlawyer or a lawyer not licensed to practice in Florida, the comment may be, but is not required to be, filed via the Portal. Comments filed via the Portal must be submitted in Microsoft Word 97 or higher. *See In re Electronic Filing in the Florida Supreme Court*, Fla. Admin. Order No. AOSC17-27 (May 9, 2017). Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399-1927; no additional copies are required or will be accepted.

APPENDIX

**INSTRUCTIONS FOR FLORIDA FAMILY LAW RULES OF PROCEDURE
FORM 12.951(a)
PETITION TO DISESTABLISH PATERNITY AND/OR TERMINATE
CHILD SUPPORT OBLIGATION
(06/18)**

When should this form be used?

This form should be used by a man who wishes to disestablish paternity or terminate a child support obligation because he is not the biological father of the child(ren). The petition must be **filed**

- in the circuit court having jurisdiction over the child support obligation; or
- if the child support was determined administratively and has not been ratified by a court, in the circuit court in which the mother or legal guardian or custodian of the child(ren) resides; or
- if the mother or legal guardian or custodian no longer resides in the state, in the circuit court in the county in which the petitioner resides.

This form should be typed or printed in black ink. After completing the form, you should sign the form before a **notary public** or **deputy clerk**.

A copy of any judgment or order regarding paternity or child support and a copy of any scientific test results showing that you cannot be the father of the child(ren) must be attached to the petition and filed with the court.

IMPORTANT INFORMATION REGARDING E-FILING

The Florida Rules of 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 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.**

What should I do next?

The petition must be served on the mother or legal guardian or custodian of the child(ren). If the child support obligation was determined administratively and has not been ratified by a court, the petition must also be served on the Department of Revenue.

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 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 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 Judicial Administration 2.516. You may find this rule at www.flcourts.org through the link to the Rules of 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 Judicial Administration 2.516.

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 Section 742.18, Florida Statutes.

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**, 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: _____

DISESTABLISHMENT OF PATERNITY PROCEEDINGS

Petitioner,

and

Respondent.

**PETITION TO DISESTABLISH PATERNITY AND/OR TERMINATE
CHILD SUPPORT OBLIGATION**

I, {full legal name} _____, Petitioner, certify that
the following information is true.

1. **Paternity.** My paternity of the child(ren), {name(s) and birth date(s)} _____

_____ was established by {Choose only one}

- a. _____ operation of law because I was married to the child(ren)'s other parent .
- b. _____ adjudication of paternity, entered by {court} _____ on
{date} _____.
- c. _____ acknowledgment of paternity executed on {date} _____.
- d. _____ other: {specify} _____.

A copy of any judgment is attached.

2. **Child support.** My child support obligation for the child(ren), {name(s) and birth date(s)},

_____ was established by {Choose
only one}

- a. _____ a final judgment of dissolution of marriage, entered by {court} _____
on {date} _____ .
- b. _____ an administrative proceeding to establish child support in {location}

_____ on {date} _____.

c. _____ a paternity proceeding in {court} _____
on {date} _____.

d. _____ other {specify} _____.

A copy of any judgment is attached.

3. **Newly discovered evidence.** Newly discovered evidence concerning the paternity of this/these child(ren) has come to my knowledge since the initial paternity determination or establishment of the child support obligation. {Explain}

_____.

4. **Scientific tests.**

a. _____ The results of scientific tests that are generally acceptable within the scientific community to show a probability of paternity, administered within 90 days prior to the filing of this petition, indicate that I cannot be the father of the child(ren) for whom support is required. A copy of the test results is attached.

b. _____ I did not have access to the child(ren) to have scientific testing performed before the filing of this petition and I request that the court order the child(ren) to be tested.

5. **Fulfillment of child support obligation.**

{Choose only one}

a. _____ I am current on all child support payments for the child(ren) for whom relief is sought.

b. _____ I have substantially complied with my child support obligation for the child(ren) and any delinquency in my child support obligation for the child(ren) arose from my inability for just cause to pay the delinquent child support when the delinquent child support became due.

I ask the court to enter an order to:

{Indicate **all** that apply}

a. _____ disestablish my paternity to {name(s) of child(ren)} _____

b. _____ terminate my obligation to pay child support for {name(s) of child(ren)}: _____

c. _____ other: _____

_____.

I certify that a copy of this document was _____ mailed _____ faxed and mailed _____ e-mailed _____ hand delivered to the person(s) listed below on {date} _____.

Respondent or his/her attorney:

Name: _____
Address: _____
City, State, Zip: _____
Fax Number: _____
Designated E-mail Address(es): _____

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: _____
Telephone Number: _____
Fax Number: _____
Designated E-mail Address(es): _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to or affirmed and signed before me on _____ by _____.

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} _____.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____

Division: _____

Petitioner,

and

Respondent.

ORDER DISESTABLISHING PATERNITY AND/OR TERMINATING CHILD SUPPORT OBLIGATION

This cause came before the court on *{date}* _____ on *{full legal name}*
_____ 's petition to *{Indicate all that apply}*

_____ Disestablish paternity to *{child(ren)'s names and birth date(s)}* _____

_____ Terminate a child support obligation for *{child(ren)'s names and birth date(s)}* _____

The court having been fully advised in the premises FINDS all of the following:

1. Newly discovered evidence relating to the paternity of the child(ren) has come to the petitioner's knowledge since the initial _____ paternity determination _____ establishment of a child support obligation.
2. Scientific tests that are generally acceptable within the scientific community to show a probability of paternity showing that the petitioner cannot be the father of the children were properly conducted.
3. The petitioner
{Choose only one}
_____ is current on all child support payments for the child(ren).

_____ has substantially complied with his child support obligation for the applicable child(ren) and any delinquency in his child support obligation arose from his inability for just cause to pay the delinquent child support when it became due.
4. The petitioner has not adopted the child.

5. The child(ren) was/were not conceived by artificial insemination while the petitioner and the child(ren)'s other parent were married.
6. The petitioner did not act to prevent the biological father of the child(ren) from asserting his paternal rights with respect to the child(ren).
7. The child(ren) was/were younger than 18 years of age when the petition was filed.
8. Since learning that he is not the biological father of the child(ren), the petitioner has not:
 - a. married the child(ren)'s other parent while known as the reputed father in accordance with section 742.091, Florida Statutes, and voluntarily assumed the parental obligation and duty to pay child support;
 - b. acknowledged paternity in a sworn statement;
 - c. consented to be named as the child(ren)'s biological father on the child(ren)'s birth certificate(s);
 - d. voluntarily promised in writing to support the child(ren) and was required to support the child(ren) based on that promise;
 - e. received written notice from any state agency or any court directing him to submit to scientific testing which he disregarded; or
 - f. signed a voluntary acknowledgment of paternity as provided by section 742.10(4), Florida Statutes.

It is therefore ORDERED AND ADJUDGED:

*{Indicate **all** that apply}*

_____ Petitioner's, *{full legal name}* _____
 paternity of *{name(s) of child(ren)}* _____
 _____ is disestablished.

_____ Petitioner's, *{full legal name}* _____
 child support obligation to *{name(s) of child(ren)}* _____
 _____ is terminated.

DONE AND ORDERED on _____ in _____, Florida.

 CIRCUIT JUDGE

I certify that a copy of the Order Disestablishing Paternity and/or Terminating Child Support Obligation was _____ mailed _____ faxed and mailed _____ e-mailed _____ hand-delivered to the parties and any entities listed below on *{date}* _____.

{Clerk of court, designee, or Judicial Assistant}

Petitioner (or his or her attorney)
Respondent (or his or her attorney)
Department of Revenue
Department of Health, Office of Vital Statistics
Court depositor/State Disbursement Unit
Other _____