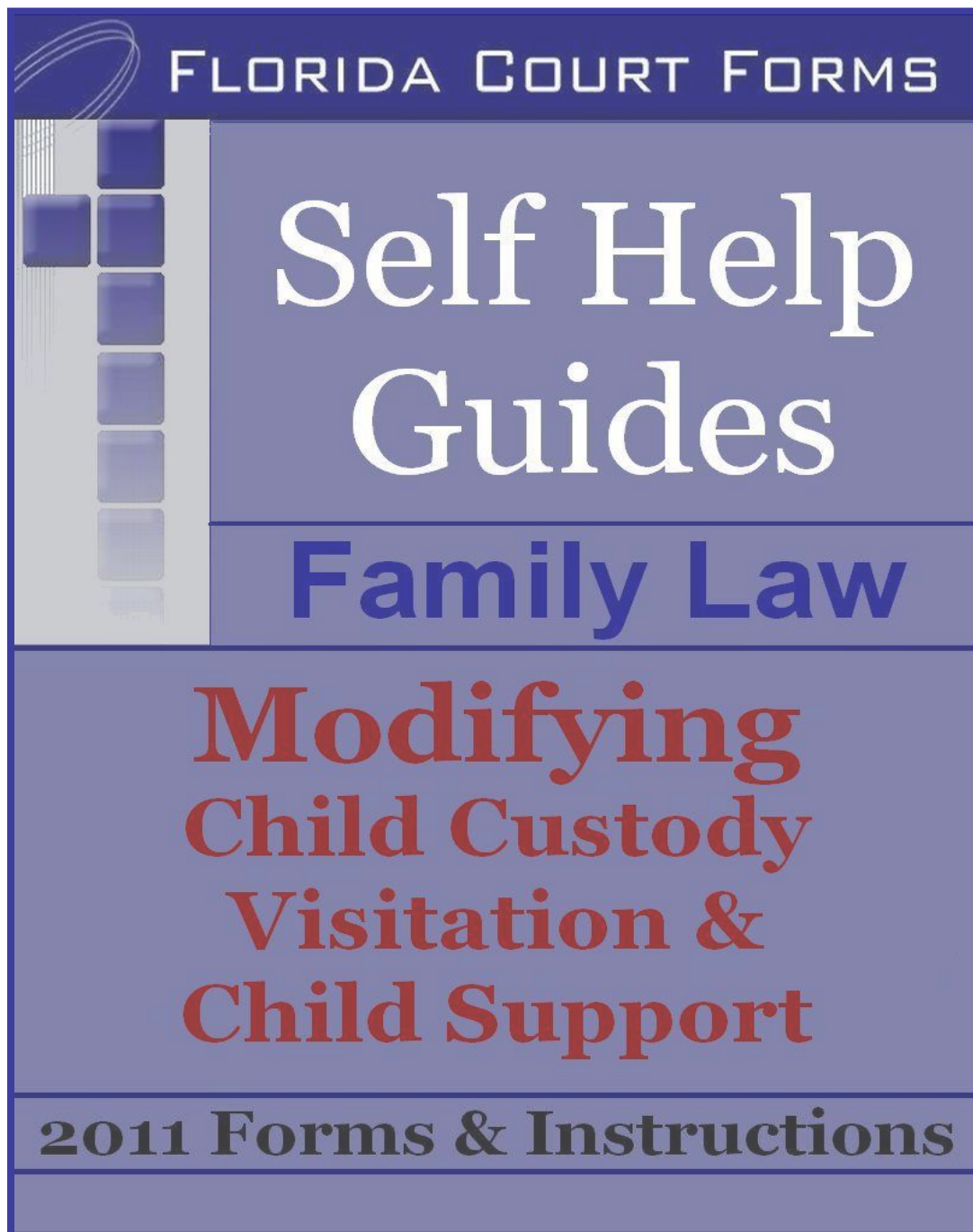


The Florida Self Help Guides Series

**Modifying Custody or Visitation
in Florida**

Guide to Florida Court Approved Form 12.905(a)

Supplemental Petition to Modify Parenting Plan/Time-Sharing Schedule and Other Relief.



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Florida-Court-Forms.net

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[1] **Introduction**

[1-1] **The Self-Represented Litigant**

Florida law allows for you to represent yourself in most Family Law cases. There is no legal requirement to have a lawyer represent you. In legal jargon, self-representation is also called "Pro-Se" which in Latin means for or by yourself. If you are reading this, you have already decided that you will be Pro-Se in your case. This guide was written to help educate you in that endeavor.

Do not confuse the information you find here as legal advice. None of the information here can help you make material decisions about your case, but what it can do is provide you with the forms, instructions, procedures, links, addresses, and phone numbers to help you successfully pursue your case Pro-Se.

We recommend you keep this guide in electronic format on your computer desktop so that you can easily refer to it and all the online information it provides. You will find it also very convenient and helpful by keeping a printed copy in your case folder for easy reference.

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[1-2] Modifying Custody and Visitation

Florida's Public Policy on Custody and Visitation

It is the public policy of this state to assure that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and to encourage parents to share the rights and responsibilities, and joys, of child-rearing.

After considering all relevant facts, the father of the child shall be given the same consideration as the mother in determining the primary residence of a child irrespective of the age or sex of the child.

The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child.

Evidence that a parent has been convicted of a felony of the third degree or higher involving domestic violence, as defined in [s. 741.28](#) and [chapter 775](#), or meets the criteria of [s. 39.806\(1\)\(d\)](#), creates a rebuttable presumption of detriment to the child.

If the presumption is not rebutted, shared parental responsibility, including visitation, residence of the child, and decisions made regarding the child, may not be granted to the convicted parent. However, the convicted parent is not relieved of any obligation to provide financial support.

If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility and make such arrangements for visitation as will best protect the child or abused spouse from further harm.

Whether or not there is a conviction of any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court shall consider evidence of domestic violence or child abuse as evidence of detriment to the child.

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[2-2] The Petition – Form 12.905(a)

The first step is to read the court approved instruction pages for your Supplemental Petition. It is provided here for your convenience. You may click on the highlighted areas for more information or to download forms. But don't worry, a complete list and links to these forms is provided at the end of this chapter.

INSTRUCTIONS FOR FLORIDA SUPREME COURT APPROVED FAMILY LAW FORM
12.905(a),
SUPPLEMENTAL PETITION TO MODIFY PARENTING PLAN/ TIME-SHARING
SCHEDULE AND OTHER RELIEF (12/10)

When should this form be used?

This form should be used when you are asking the court to change the current parental responsibility, visitation, and/or Parenting Plan/time-sharing schedule. A determination of parental responsibility, a Parenting Plan and a time-sharing schedule may not be modified without a showing of a substantial, material, and unanticipated change in change in circumstances and a determination that the modification is in the best interests of the child(ren).

This form should be typed or printed in black ink. After completing this form, you should sign the form before a notary public or deputy clerk. You should file this form in the county where the original order was entered. If the order was entered in another state, or if the child(ren) live(s) in another state, you should speak with an attorney about where to file this form. You should file the original with the clerk of the circuit court and keep a copy for your records.

What should I do next?

For your case to proceed, you must properly notify the other party in your case of the supplemental petition. If you know where he or she lives, you should use personal service. If you absolutely do not know where he or she lives, you may use constructive

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service. You may also be able to use constructive service if the other party resides in another state or country. However, if constructive service is used, other than granting a dissolution of marriage, the court may only grant limited relief. For more information on constructive service, see Notice of Action for Dissolution of Marriage, Florida Supreme Court Approved [Family Law Form 12.913\(a\)](#), and Affidavit of Diligent Search and Inquiry, Florida Family Law Rules of [Procedure Form 12.913\(b\)](#). If the other party is in the military service of the United States, additional steps for service may be required. See, for example, Memorandum for Certificate of Military Service, Florida Supreme Court Approved [Family Law Form 12.912\(a\)](#). In sum, the law regarding constructive service and service on an individual in the military service is very complex and you may wish to consult an attorney regarding these issues.

If personal service is used, the other party has 20 days to answer after being served with your supplemental petition. Your case will then generally proceed in one of the following three ways:

DEFAULT... If after 20 days, no answer has been filed, you may file a Motion for Default, Florida Supreme Court Approved [Family Law Form 12.922\(a\)](#), with the clerk of court. Then, if you have filed all of the required papers, you may call the clerk, family law intake staff, or judicial assistant to set a final hearing. You must notify the other party of the hearing by using a Notice of Hearing (General), Florida Supreme Court Approved [Family Law Form 12.923](#), or other appropriate notice of hearing form.

UNCONTESTED... If the respondent files an answer that agrees with everything in your supplemental petition or an answer and waiver, and you have complied with mandatory disclosure and filed all of the required papers, you may call the clerk, family law intake staff, or judicial assistant to set a final hearing. You must notify the other party of the hearing by using a Notice of Hearing (General), Florida Supreme Court Approved [Family Law Form 12.923](#), or other appropriate notice of hearing form.

CONTESTED... If the respondent files an answer or an answer and counterpetition, which disagrees with or denies anything in your supplemental petition, and you are unable to settle the disputed issues, you should file a Notice for Trial, Florida Supreme Court Approved [Family Law Form 12.924](#), after you have complied with mandatory disclosure and filed all of the required papers. Some circuits may require the completion of mediation before a final hearing may be set. Then you should contact the clerk, family

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Schedule or Other Relief, Florida Supreme Court Approved [Family Law Form 12.993\(a\)](#), which the judge may use. You should check with the clerk, family law intake staff, or judicial assistant to see if you need to bring it with you to the hearing. If so, you should type or print the heading, including the circuit, county, case number, division, and the parties' names, and leave the rest blank for the judge to complete at your hearing or trial.

Nonlawyer. 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.

It is extremely important to follow the instructions provided on each form as they are written. Any deviation from the forms' instructions could cause your case to be dismissed or may end your case with unsatisfactory results.

The first part of the form and for all your supporting forms is called the heading. Be sure to fill out all the headings exactly the same way.

HEADING

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

Case No.: _____
Division: _____

Petitioner,

and

Respondent.

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Have a copy of your original court papers for your case available. Contact the county Clerk of Court where the original petition was filed to find out how to get a copy.

Whether it was a Final Judgment of Dissolution of Marriage or a Petition to Determine Paternity, you must use the same heading in your Supplemental Petition.

Print your full legal name (usually the way it is printed on your driver's license) in the spaces provided.

**SUPPLEMENTAL PETITION TO MODIFY
PARENTING PLAN/TIME-SHARING SCHEDULE AND OTHER RELIEF**

I, *{full legal name}* _____, being sworn, certify that the following information is true:

1. The parties to this action were granted a final judgment of () dissolution of marriage () paternity on *{date}* _____. A copy of the final judgment and any modification(s) is attached.
2. Paragraph(s) _____ of the () final judgment or () most recent modification thereof describes the present Parenting Plan/Time-Sharing schedule.

In paragraph 1. check off the appropriate box for the type of Final Judgment you are asking to modify. If you are not sure, check your copy of the Final Judgment and enter the date of the Final Judgment. Attach a copy to your completed forms.

In paragraph 2. write the paragraph number of the Final Judgment or the most recent Modification that covers your Parenting Plan and Time-Sharing schedule.
