

DISESTABLISHMENT OF PATERNITY

(a man wants to disestablish paternity or terminate a child support obligation because he is not the biological father)

(Packet #44)

WARNING

Disestablishment of Paternity cases can be complicated. Having a DNA test showing that you are not the biological father might not, by itself, be enough to win this case. If you lose this case, you might not have another chance. You should get advice from a family law attorney before starting.

USE THIS PACKET IF:

- 1) You are a man, **AND**
- 2) You are the legal father of a child or children, **AND**
- 3) You want to disestablish paternity or terminate a child support obligation because you are not the biological father of the child(ren), **AND**
- 4) The child will be younger than 18 when you file this case.
AND
 - 1) You were ordered to pay child support in a Hillsborough County case, **OR**
 - 2) If the child support was determined ADMINISTRATIVELY and has not been ratified by a court, the mother or legal guardian or custodian of the child(ren) lives in Hillsborough County, **OR**
 - 3) If the mother or legal guardian or custodian of the child(ren) no longer lives in Florida, and you live in Hillsborough County.

If you choose to represent yourself (*pro se*) in your case, you should be aware that you will be required to follow the same rules that are required in cases filed by persons represented by attorneys. The judge assigned to your case is not necessarily required to grant what you request in a form. If you do not like the outcome of your case, you may not be able to change it. If you have any questions or concerns about your case, you should consult with an attorney.

If you do not know an attorney, you may call the Lawyer Referral Service at 221-7780. If you do not have the money to hire an attorney, you may apply to Bay Area Legal Services by calling 232-1343. You may also obtain legal information at the Legal Information Center at the George Edgecomb Courthouse (call 864-2280 for hours and information).

All instructions and forms distributed by the Thirteenth Judicial Circuit are provided merely as a public service to persons seeking to represent themselves in court without the assistance of an attorney. These documents are meant to serve as a guide only, and to assist *pro se* (self-represented) litigants with their cases. The Thirteenth Judicial Circuit does not guarantee that either the instructions or the forms will achieve the result desired by the parties or ensure that any individual judge will follow the procedures exactly or accept each and every form as drafted. Any person using these instructions and/or forms does so at his or her own risk, and the Thirteenth Judicial Circuit shall not be responsible for any losses incurred by any person in reliance on the instructions and/or forms.

In no event will the Florida Supreme Court, The Florida Bar, or anyone contributing to the production of these forms, commentary, instructions, and appendices be liable for any direct, indirect, or consequential damages from their use.

<u>FORMS CONTAINED IN THIS PACKET</u>	<u>FORM #</u>	<u>WHEN TO USE</u>
<u>General Information for Self-Represented Litigants</u>	Appendix C	For your information only
<u>12 Rules of Courtroom Civility</u>	12 Rules	Required to start case
<u>Nonlawyer Disclosure</u>	12.900(a)	Required if someone who is not a lawyer helps you with the forms
<u>Civil Cover Sheet</u>	12.928	Required to start case
<u>Petition to Disestablish Paternity and/or Terminate Child Support Obligation</u>	12.951(a)	Required to start case
<u>Uniform Child Custody Jurisdiction and Enforcement Act Affidavit (UCCJEA)</u>	12.902(d)	Required to start case
<u>Notice of Social Security Number</u>	12.902(j)	Required to start case
<u>Summons: Personal Service on an Individual (2)</u>	12.910(a)	Required. Use one to have the mother or legal guardian or custodian of the child(ren) served. Use a second one to have the Department of Revenue (DOR) served if they have ever been involved in establishing and/or enforcing your child support order.
<u>Process Service Memorandum (2)</u>	12.910(b)	Required. Use with the Summons if serving the mother or legal guardian or custodian of the child(ren) and the Department of Revenue.
<u>Notice of Related Cases</u>	12.900(h)	Required
<u>Nonmilitary Affidavit</u>	12.912(b)	Use only if the mother or legal guardian or custodian of the child(ren) is NOT in the military and they do not file an answer
<u>Motion for Default</u>	12.922(a)	Use if the mother/legal guardian/custodian of the child does not file an answer within 20 days after service
<u>Default</u>	12.922(b)	Use if the mother/legal guardian/custodian of the child does not file an answer within 20 days after service
<u>Motion for Scientific Paternity Testing</u>	12.983(e)	Use if you want to ask the court to order DNA testing to disestablish paternity
<u>Fee Schedule for Family Law Cases</u>	Fee	A schedule of fees for Family Law related cases
<u>Notice of Confidential Information Within Court Filing</u>	2.40(d)(2)	Use to notify the clerk of documents containing confidential information

STEP BY STEP INSTRUCTIONS

STEP ONE - Complete the forms to start the case and have them notarized

- 1) **FORMS MUST BE COMPLETED AND SIGNED IN BLACK INK AND MOST MUST BE NOTARIZED.** The clerk's office will notarize documents and charge a fee (see attached schedule). Please bring a valid ID.
- 2) **You are the Petitioner. The child(ren)'s mother/legal guardian/custodian is the Respondent.**
- 3) **Names must be written the same way on all documents (no full names on one document and initials on another).**
- 4) **Complete the following forms and notarize the ones with a notary signature line:**
 - A) Civil cover sheet - (does not need to be notarized)
 - B) 12 Rules of Courtroom Civility - (does not need to be notarized)
 - C) Petition to Disestablish Paternity and/or Terminate Child Support Obligation, Form 12.951(a) – **MUST BE SWORN AND NOTARIZED**
 - D) Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) Affidavit, Form 12.902(d)
 - E) Notice of Social Security Number, Form 12.902(j)
 - F) Notice of Related Cases, Form 12.900(h)
 - G) Summons, Form 12.910(a) - (needs to be signed by the clerk, not by you) – complete two of these if the Department of Revenue (DOR) has ever been involved in establishing or enforcing your child support
 - H) Process Service Memorandum, Form 12.910(b) - (does not need to be notarized) – complete two of these if the Department of Revenue (DOR) has ever been involved in establishing or enforcing your child support

STEP TWO – Make copies

After you have completed the forms and have signed and notarized them, make 3 complete sets of copies of everything you have signed if you are serving the Department of Revenue (DOR). Only make 2 sets of copies if you are not serving the Department of Revenue. One set of copies is for your records. Copies can be obtained for a fee in the Court Business Center, on the 6th floor of the George Edgecomb Courthouse. You may also purchase copies for \$0.15 per page, before filing your case, from the Family Law Intake staff in room 101.

STEP THREE - Filing your case

- 1) Take the *original* set of completed and signed forms to the clerk on the 1st floor of the main courthouse and pay the filing fee.
- 2) The clerk will assign a case number and division.
- 3) Summons: The clerk will sign the Summons and give it back to you. There is a charge to issue a Summons.

STEP FOUR – Notifying the other party (and the Department of Revenue?)

SUMMONS – Attach the Summons and the Process Service Memorandum to one complete copy of your documents and take them to the sheriff or process server in the county where the mother/legal guardian/custodian of the child is going to be served (where that person lives or works). If you are also serving the Department of Revenue, attach one complete copy of your documents to a second Summons and Process memo and take it to the sheriff or process server in Leon County, Florida, to be served on the Florida Department of Revenue at 5050 West Tennessee Street, Tallahassee, FL 32399. The mother/legal guardian/custodian of the child will have 20 days after the date the sheriff or process server delivers the papers to file a written response (answer). HILLSBOROUGH COUNTY: Hillsborough County Sheriff's Civil Process is located at 700 Twiggs Street on the 3rd floor (across the street from the main courthouse). A non-refundable fee is required (only cash, cashier's checks or money orders -- no personal checks). This fee will be waived if you have filed an Application for Civil Indigency and the clerk has marked that you are indigent.

STEP FIVE – Obtain proof of service

SUMMONS – When the mother/legal guardian/custodian of the child is served, the sheriff or process server should send you a form indicating the date and time he/she was served. File this with the clerk.

STEP SIX – Check for answer / default

- 1) Call the Clerk of the Circuit Court (276-8100) 21 days after the mother/legal guardian/custodian of the child was served to see if he/she filed an answer.
- 2) If no answer was filed and the Respondent is not in the military, complete the following forms: Nonmilitary Affidavit - Form 12.912(b), Motion for Default - Form 12.922(a), and a Default - Form 12.922(b). Take the Nonmilitary Affidavit, Motion for Default, Default, and your proof of service/publication to the clerk.
- 3) If no answer was filed and the Respondent is in the military STOP HERE and consult an attorney.
- 4) If an answer was filed, obtain a copy in Room 101 of the courthouse (if the Respondent did not send you a copy).
- 5) If the Respondent filed a counterpetition, you have 20 days to file a written answer to the counterpetition. You can use Form 12.903(d) – Answer to Counterpetition. File the original with the clerk, send a copy to the Respondent, and keep a copy for your records.

STEP SEVEN – Mediation (only if the other party files an answer denying any allegations or files a counterpetition)

If the Respondent filed an answer and disputes any of the allegations in your petition, you and the Respondent will need to go to mediation to see if the disputed issue(s) can be resolved. Call the Mediation and Diversion office at 813-272-5642 and ask them to schedule a mediation date. If the other party does not contact the mediation department or the issue(s) cannot be resolved in mediation, the final hearing will be set on the judge's contested docket.

STEP EIGHT – Preparing your case / gathering evidence (if you and the other party do not agree and your case is contested)

If the other party is contesting issues in your case, you will need to be prepared to present evidence to the judge which supports your position(s). Gathering evidence is called “discovery.” Discovery is governed by Florida Family Law Rules of Procedure 12.280 – 12.410 and Florida Rules of Civil Procedure 1.280 – 1.410.

Some discovery methods are:

1. Interrogatories – written questions you send to the other party. See Forms 12.930(a), Notice of Service of Standard Family Law Interrogatories, and 12.930(b), Standard Family Law Interrogatories for Original Proceedings, and their instructions.
2. Notice of Production from Non-Party/Subpoena – a request to someone who is not a party in the case (not the other party) to provide copies of documents to you or to produce documents to be copied by you. See Forms 12.931(a), Notice of Production from Non-Party, and 12.931(b), Subpoena for Production of Documents, and their instructions.
3. Depositions – taking someone’s testimony (a party or non-party) under oath before a court reporter.
4. Request for Production of Documents and Things – a written request that the other party provide specified documents or things for you to copy or examine. See Florida Rule of Civil Procedure 1.350.

Not all evidence can be considered by the judge. Evidence must conform to the Rules of Evidence in Chapter 90 of the Florida Statutes to be admissible in court. The duty of establishing the facts that you want to present to the court, or the burden of proof, is on YOU. You should provide the judge with admissible evidence to support the claims in your petition and your statements in court.

STEP NINE – Scheduling the final hearing

IF THE OTHER PARTY DOES NOT HAVE AN ATTORNEY

1. Contact the Case Management Unit (813-272-5173) to schedule the final hearing.
2. You will be contacted by mail regarding a court date.

IF THE OTHER PARTY IS REPRESENTED BY AN ATTORNEY

1. Contact the judicial assistant (J.A.) for the judge to whom your case is assigned and ask the J.A. for 3 possible hearing dates and times.
2. Call the opposing attorney and ask which of those dates and times is best for him/her.
3. Call the J.A. and tell her which date and time you have chosen.
4. Complete a Notice of Hearing, Form 12.923 (not included), with the place, date, and time of the hearing.
5. Sign the Notice of Hearing and complete the Certificate of Service part of the notice which states the date you are filing the notice and how you are providing a copy to the opposing attorney.
6. Make 3 copies of the Notice of Hearing.
7. File the original Notice of Hearing with the clerk.
8. Give a copy of the Notice of Hearing to the J.A., send a copy of the notice to the other party’s attorney, and keep a copy of the notice for your records.

COURT REPORTER?

If you want a court reporter for the hearing, you must arrange for this in advance and you must pay the court reporter’s fee. If there is no record of the hearing and the judge rules against you, you may not be able to appeal the decision.

STEP TEN – The final hearing

Normally the final hearing is when the petition (and counterpetition, if one was filed) will be considered and all issues will be decided. If you do not go to the final hearing your case may be dismissed.

HOW TO DRESS - Dress appropriately. No shorts, tank tops, or sandals. Do not chew gum.

WHAT TO BRING - All evidence you want the court to consider in deciding your case, if your case is contested

WHAT TO EXPECT

The hearing will take place in a hearing room or a courtroom. You will not be in front of a jury, just the general magistrate or judge. Do not interrupt the magistrate or judge when he or she speaks. When speaking to the magistrate or judge, address him or her as “Your Honor” or “Judge.”

Each court has at least one bailiff who is a deputy sheriff and is there to maintain order. When you arrive for your hearing, let the bailiff know that you are present and ready. He or she will announce your case when it is time for your hearing, and will tell you where to sit and where to place your belongings as you enter the hearing room. A bailiff will usually remain inside the room during your hearing. If witnesses are called, the bailiff will step out to bring the witness into the hearing room.

At your hearing, be prepared to discuss any issues covered in the petition (and the counterpetition, if one was filed) and be able to provide proof of any disputed facts by presenting evidence. Evidence is proof presented at a hearing in the form of witnesses (people), exhibits (documents), and objects (things). Not all evidence can be considered by the judge, however. Evidence must conform to the Rules of Evidence in Chapter 90 of the Florida Statutes to be admissible in court. Remember, the duty of establishing the facts that you want to present to the court is on YOU. You should provide the judge with admissible evidence to support the claims in your petition and your statements in court. Telling your story may not be enough to win your case.

Once both sides have presented their evidence, the judge will make a decision and sign your judgment. The final judgment will contain all the details of your case and the court’s decision. Once the judge signs your judgment/order, a copy will be given or mailed to you. The original order will go to the clerk’s office to be recorded in the public records, and filed in your court file. When the judge signs the final judgment, your case will be final.

Family Forms and Packets - available for purchase at the Court Business Center

Form Packets with Instructions:

- 1) Complete packets with all forms and self-help instructions are priced individually and available at the Court Business Center (CBC), in Room 630 (6th Floor) of the George Edgecomb Courthouse, 800 E. Twiggs Street, Tampa, Florida.
- 2) Free online at:
 - a) www.fljud13.org/SelfHelp.aspx → Access Forms
 - b) www.hillsclerk.com/About-Us/Forms → Family Law

Individual Forms (may not include necessary instructions):

- 1) For \$.10 per page at the Court Business Center (CBC), in Room 630 (6th Floor) of the George Edgecomb Courthouse, 800 E. Twiggs Street, Tampa, Florida.
- 2) Free online at: www.flcourts.org → then click on “Family Law Forms”

YOU MAY FILE FORMS AT THE FOLLOWING LOCATIONS:

Tampa - George Edgecomb Courthouse – Main Location

Clerk of the Circuit Court, 800 E. Twiggs Street, Room 101, Tampa, FL 33602

Brandon – Brandon Regional Service Center

Clerk of the Circuit Court, 311 Pauls Drive, Suite 110, Brandon, FL 33511

Plant City – Plant City Courthouse

Clerk of the Circuit Court, 301 N. Michigan, Room 1071, Plant City, FL 33563

Ruskin/Sun City – SouthShore Regional Service Center

Clerk of the Circuit Court, 410 30th Street SE, Ruskin, FL 33570