

**IN THE SUPREME COURT OF FLORIDA**

Case No. SC02-2445

**IN RE: FLORIDA FAMILY LAW FORMS**

**COMMENTS OF INTERESTED PARTY  
DAVID A. DEMERS  
CHIEF JUDGE OF THE SIXTH JUDICIAL CIRCUIT**

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The Supreme Court published proposed new Florida Family Law Forms and amendments to current Florida Family Law Forms that are necessary as a result of the passage of Senate bill 716 during the 2002 legislative session. See chapter 2002-55, Laws of Florida. The Court did so under the procedure adopted in *Amendments to the Florida Family Law Rules of Procedure and Family Law Forms*, 810 So.2d 1 (Fla. 2000) and invited comment on the proposed forms and form amendments.

David A. Demers is the chief judge of the Sixth Judicial Circuit. He offers the following comments on behalf of the family law judges in the Sixth Judicial Circuit.

Florida Family Law Form 12.980(b), Petition for an Injunction against Domestic Violence, adds a section for the petitioner to include a physical description of the petitioner. It does not seem necessary to include the physical description of the petitioner.

Florida Family Law Form 12.980(c)(1), Order Setting Hearing, includes a proposed amendment that would delete the option of indicating that the court does not provide for a court reporter or electronic reporting of the proceedings. The statutory changes to section 741.30(6)(h), Fla. Stat. (2002) require recording of domestic violence proceedings but not repeat or dating violence proceedings. While this circuit intends to record all these proceedings, it may be necessary to forgo recording of repeat or dating violence proceedings in certain circumstances. The form should continue to allow for this option in repeat violence and dating violence cases.

Several suggestions are offered to improve Florida Family Law Form 12,980(o), Petition for Injunction Against Dating Violence. In the instructions, paragraph three, a reference is made to the circumstances under which a petition for an injunction against domestic violence should be used rather than a petition for an injunction against dating violence. The instructions, however, do not reflect the statutory changes regarding who is entitled to a domestic violence injunction.

In the petition, several suggestions, including stylistic changes are offered as reflected in Appendix A, the form in use in the Sixth Judicial Circuit. The more substantive suggestions are summarized here. In section I, item 1, the petition provides for a check off for the petitioner to indicate whether or not a minor child for whom the petitioner is seeking an injunction resides at home. Since the minor child must live at home in order for the petitioner to have standing, see section 784.046(2)(a), Fla. Stat., it is recommended that the form only provide for such option. This change is also recommended for Florida Family Law Form 12.980(g), Petition for Protection Against Repeat Violence.

Subsequent to the adoption of the Sixth Judicial Circuit local forms, questions have been raised about minor petitioners seeking a dating violence injunction without the benefit of a legal representative. In section I, a new item should be added seeking the birth date of the petitioner.

Several changes are also recommended in section II. The date the petitioner met the respondent can be deleted. The date the parties met is not directly relevant to this cause of action. The parties must have had a dating relationship within the last six months regardless of when they met and this question is included in section III.

Information about a minor respondent's parent or guardian should be provided. This information will be needed to effect service of process upon a minor respondent.

In section III, the original item one should be deleted and YES/NO questions inserted. This tracks the exact statutory language. The court needs this in order to establish jurisdiction to proceed with the petition and it will provide the court with more specific information needed to determine whether or not the injunction should be issued.

In section III, questions three and four inquire about past dating violence injunctions. Both of these questions should be expanded to ask the petitioner about prior domestic violence or repeat violence injunctions.

In section III, question six should make it clear that this is asking for information about the "most recent" incident of violence.

In section IV, an additional check off should be provided for the petitioner to request that the respondent be prohibited from coming within 100 feet of the petitioner's automobile. Since this relief is provided for in the injunction, there should be a place for the petitioner to request this relief.

Florida Family Law Form 12.980(p), Temporary Injunction for Protection Against Dating Violence, states that the court has jurisdiction over the parties. This parallels the statements in Florida Family Law Forms 12.980(d)(1), (d)(2), and (I) and conforms to sections 741.30(6)(d), and 784.046(7)(d), Fla. Stat. However, the court does not have jurisdiction over the respondent until the temporary injunction is served. All of these forms should be amended to state that the court has jurisdiction over the petitioner and the subject matter and has jurisdiction over the respondent upon service of the temporary injunction.

Florida Family Law Form 12.980(q), Final Judgment of Injunction for Protection Against Dating Violence, provides that the injunction is entitled to full faith and credit in accordance with 18 U.S.C. section 2265. It is not clear whether these orders will be entitled to full faith and credit because of the definition of an "intimate partner" in 18 U.S.C. section 2266.



## CONCLUSION

For the above stated reasons, the Court should modify the Florida Family Law Forms as described herein and adopt them as Supreme Court Approved Forms.

Respectfully submitted this \_\_\_\_\_ day of January 2003.

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of COMMENTS OF INTERESTED PARTY DAVID A. DEMERS CHIEF JUDGE OF THE SIXTH JUDICIAL CIRCUIT has been furnished to John F. Harkness, Executive Director, The Florida Bar, 650 Apalachee Parkway, Tallahassee, FL 32399; Michael Walsh, Chair of the Family Law Rules Committee, 501 S. Flagler Dr., Suite 306, West Palm Beach, FL 33401-5911; The Honorable Barbara J. Pariente, Chair, Steering Committee on Families and Children in the Court, 500 S. Duval Street, Tallahassee, FL 32399-1925; and Caroline K. Black, Chair, Family Law Section of The Florida Bar, 307 S. Magnolia Ave., Tampa, FL 33606 by U.S. Mail this 14<sup>th</sup> day of January 2003.

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**CERTIFICATE OF COMPLIANCE**

I hereby certify that this brief was prepared using Times New Roman 14 point font, and complies with the requirements set forth in Rule of Appellate Procedure 9.210(a)(2).

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