

**IN THE SUPREME COURT OF FLORIDA**

IN RE: AMENDMENTS TO THE  
FLORIDA FAMILY LAW RULES  
OF PROCEDURE (FORM 12.905[d])

CASE NO: SC07-1160

**COMMENT OF THE FAMILY LAW SECTION OF THE FLORIDA BAR**

THE FAMILY LAW SECTION OF THE FLORIDA BAR, by and through its Chair, Allyson Hughes, and the Chair of its Rules and Forms Committee, Ronald L. Bornstein, hereby files this Comment of the Family Law Section of The Florida Bar to proposed Form 12.905(d), and states:

A. POSITION

A special Sub-Committee of the Family Law Section of the Florida Bar appointed to consider Temporary Modification of Custody in Military Deployments voted unanimously (6-0) to oppose the creation of the proposed Form 12.905(d) as presently drafted, and to support amendment of the proposed Form. On August 28, 2007, the Executive Council of the Family Law Section voted unanimously (24-0) to oppose creation of the proposed Form 12.905(d) as presently drafted, and to support the proposed amendments of the special Sub-Committee. Thus, **the Family Law Section of the Florida Bar opposes the creation of proposed Form 12.905(d) as presently drafted and supports the amendment of proposed Form Rule 12.905(d).**

B. NECESSITY FOR FORM CREATION

The Family Law Section of The Florida Bar has reviewed the Petition filed by the Florida Bar Family Law Rules Committee. The Section recommends the following changes to proposed Form 12.905(d) and the instructions thereto:Form:

Paragraph 1: In the last sentence, substitute "and" in place of "or" as follows: "A copy/copies of the final judgment and any modification(s) is/are attached."

Paragraphs 8 and 9 to be deleted in their entirety.Paragraphs 10 and 11 to be renumbered as 8 and 9, respectively.

Instructions:

Delete the bullet point references to the Child Support Guidelines Worksheet; Notice of Social Security Number; Family Law Financial Affidavit; and Certificate of Compliance with Mandatory Disclosure.

The problem posed by the proposed Form as presently drafted is related to the modification of child support. Although the Family Law Section recognizes that the proposed Form as drafted seeks to address problems created or affected by the goal of the related legislation, specifically, the temporary modification of child custody due to the military deployment of a primary residential/custodial parent, the legislation itself either did not address at all, or did not adequately address such problems. In such an instance, the appropriate solution is remedial and corrective legislation, and not attempted correction by insertion into a proposed Form that which the Legislature should have but did not provide, to wit: a temporary change in child support necessitated by the temporary change in child custody, where applicable. By removing the child support-related paragraphs, and the child support-related instructions, the issues of concern giving rise to the objections to the proposed Form as drafted are eliminated. What is left is a proposed Form more closely

aligned with the related legislation. The Legislature can and should amend or modify the legislation in the future to address the oversight of failing to provide for the temporary modification of child support resulting from a temporary modification of child custody, and the Form can then be modified accordingly.

WHEREFORE, THE FAMILY LAW SECTION OF THE FLORIDA BAR respectfully files this Comment, opposes the proposed Form 12.905(d) as drafted, and seeks amendment of the proposed Florida Family Law Form 12.905(d) as more particularly set forth herein.

**CERTIFICATE OF SERVICE**

WE HEREBY CERTIFY that the original, nine copies and a WordPerfect diskette version of the foregoing Comment have been filed with the Clerk and a true copy has been furnished via electronic mail and U.S. mail upon the Honorable Ray McNeal, Chair of the Florida Bar Family Law Rules Committee, 2640 S.E. 45<sup>th</sup> Street, Ocala, Florida 34480, this \_\_\_\_\_ day of September, 2007.

Respectfully submitted,

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