

The Florida Supreme Court, on its own motion, proposes an amendment to the Florida Family Law Rules of Procedure. The proposed new rule is meant to implement section 61.13001, Florida Statutes (2007), governing parental relocation with a child. Florida Supreme Court Approved Forms 12.950(a), 12.950(b), and 12.950(c) referred to in the proposed rule were proposed by the Family Law Rules Committee and were previously published for comment but have not yet been adopted. Those forms, along with several other related forms previously proposed on the Court's own motion and published for comment can be found on the Court's website at <http://www.floridasupremecourt.org/decisions/proposed.shtml>.

The Court invites all interested persons to comment on the proposed rule amendment, reproduced in full below, as well as online at <http://www.floridasupremecourt.org/decisions/proposed.shtml>. Although not reproduced in full here, the Court again invites comments on the previously published forms in this case. As noted above, these forms can be found on the Court's website. An original and nine paper copies of all comments must be filed with the Court on or before March 2, 2009, 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. Further, if comments are directed toward proposed forms 12.950(a), 12.950(b), or 12.950(c), a certificate of service is required, verifying that a copy has been served on the chair of the Family Law Rules Committee, Robyn L. Vines, 200 E. Broward Blvd, 15th Floor, Fort Lauderdale, FL 33301-1963. The committee chair has until March 23, 2009, to file a response to any comments filed with the Court. Electronic copies of all comments also must be filed in accordance with the Court's administrative order In re Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004).

IN THE SUPREME COURT OF FLORIDA
IN RE AMENDMENTS TO THE FAMILY LAW RULES,
CASE NO. SC06-2513

RULE 12.635 RELOCATION OF CHILD

(a) Application. This rule applies to all proceedings to relocate the residence of a child under section 61.13001, Florida Statutes.

(b) Notice of Intent to Relocate and Certificate of Service.

Unless the parties have entered into an agreement as to relocation, as described in subdivision (e) of this rule, a parent or other person who seeks to relocate a child's residence under section 61.13001, Florida Statutes, shall serve on the other parent and any other person entitled to time-sharing with the child a copy of a notice of intent to relocate with the child, prepared in substantial conformity with Florida Family Law Rules of Procedure Form 12.950(a), and a separate certificate of service of notice of intent to relocate prepared in substantial conformity with Florida Family Law Rules of Procedure Form 12.950(b). Only the certificate of service shall be filed with the court. The notice of intent to relocate and the certificate of service shall be served as follows:

(1) If an action concerning the child is not pending with the court but is to be contemporaneously filed, or if an action concerning the child is not pending with the court but there is an existing judgment or decree concerning the child's residence or time-sharing schedule, the copy of the notice of intent and the separate certificate of service shall be served by certified mail, restricted delivery, return receipt requested or according to Chapter 48 or 49, Florida Statutes.

(2) If an action concerning the child is pending with the court, the copy of the notice of intent and the separate certificate of service shall be served in accordance with these rules.

(c) Objection to Notice of Intent to Relocate. A person on whom a notice of intent to relocate is served may object to the proposed relocation, in writing, within 30 days of service of the notice of intent, by filing with the court and serving on the parent or other person seeking relocation, at the address indicated for service on the notice of intent, an objection to notice of intent to relocate in substantial conformity with Florida Family Law Rules of Procedure Form 12.950(c).

(d) Proceedings to Obtain Court Approval of Relocation. At any time after an objection to the notice of intent to relocate is filed, or if no objection is timely filed, then after expiration of the period within which one may file a timely objection, but before relocating with the child, the parent or other person seeking to relocate shall file with the court and serve in accordance with these rules on the other parent and any other person entitled to time-sharing with the child the following:

(1) a petition to relocate the child's residence if an action concerning the child is not pending with the court but is to be filed contemporaneously with the notice of intent to relocate, or a supplemental petition to relocate the child's residence if an action concerning the child is not pending with the court, but there is an existing judgment or decree concerning the child's residence or time-sharing schedule;

(2) the original notice of intent to relocate and all notices of updated relocation information previously served; and

(3) a Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) affidavit in substantial conformity with Florida Supreme Court Approved Family Law Form 12.902(d).

(e) Relocation by Agreement.

(1) If the parents and every other person entitled to time-sharing with the child agree to the relocation of the child's residence and sign an agreement that complies with section 61.13001(2), Florida Statutes, the parent or other person seeking to relocate shall, before the relocation of the child, file with the court and serve on all parties to the agreement

(A) a copy of the agreement complying with section 61.13001(2), Florida Statutes, that permits relocation of the child, with a notice stating the date the agreement is being filed with the court and that if a hearing is not requested within 10 days of filing, then it shall be presumed that the relocation is in the best interest of the child and the court may ratify the agreement without an evidentiary hearing; and

(B) a Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) affidavit, in substantial conformity with Florida Supreme Court Approved Family Law Form 12.902(d).

(2) The parties shall obtain a judgment from the court ratifying the agreement before the relocation of the child. The court may enter a supplemental final judgment ratifying the agreement without a motion or supplemental petition.