

Proposed rule

Reasons for change

RULE 12.285. MANDATORY DISCLOSURE

(a) **Application.** [No change]

(b) **Time for Production of Documents.** [No change]

(c) **Disclosure Requirements for Temporary Financial Relief.** [No change]

(1) A financial affidavit in substantial conformity with Florida Family Law Rules of Procedure Form 12.902(b) if the party's gross annual income is less than \$50,000, or Florida Family Law Rules of Procedure Form 12.902(c) if the party's gross annual income is equal to or more than \$50,000. This requirement cannot be waived by the parties. The affidavit ~~also~~ must also be filed with the court.

(2) [No change]

(3) [No change]

(4) [No change]

(d) **Disclosure Requirements for Initial or Supplemental Proceedings.** A party shall serve the following documents in any proceeding for an initial or supplemental request for permanent financial relief, including, but not limited to, a request for child support, alimony, equitable distribution of assets or debts, or attorneys' fees, suit money, or costs:

[Editorial change]

[Editorial change]

(1) A financial affidavit in substantial conformity with Florida Family Law Rules of Procedure Form 12.902(b) if the party's gross annual income is less than \$50,000, or Florida Family Law Rules of Procedure Form 12.902(c) if the party's gross annual income is equal to or more than \$50,000, which requirement cannot be waived by the parties. The financial affidavits ~~also~~ must also be filed with the court. A party may request, by using the Standard Family Law Interrogatories, or the court on its own motion may order, a party whose gross annual income is less than \$50,000 to complete Florida Family Law Rules of Procedure Form 12.902(c).

[Editorial change]

(2) [No change]

(3) [No change]

(4) [No change]

(5) [No change]

(6) [No change]

(7) [No change]

(8) [No change]

(9) [No change]

(10) [No change]

(11) [No change]

(12) [No change]

(13) [No change]

(14) [No change]

(15) [No change]

(16) [No change]

(e) Duty to Supplement Disclosure; Amended Financial Affidavit.

(1) [No change]

(2) If an amended financial affidavit or an amendment to a financial affidavit is filed, the amending party ~~also~~ shall also serve any subsequently discovered or acquired documents supporting the amendments to the financial affidavit.

(f) Sanctions. [No change]

(g) Extensions of Time for Complying with Mandatory Disclosure. By agreement of the parties, the time for complying with mandatory disclosure may be extended. Either party ~~also~~ may also file, at least 5 days before the due date, a motion to enlarge the time for complying with mandatory disclosure. The court shall grant the request for good cause shown.

[Editorial change]

(h) Objections to Mandatory Automatic

Disclosure. [No change]

(i) **Certificate of Compliance.** All parties subject to automatic mandatory disclosure shall file with the court a certificate of compliance, Florida Family Law Rules of Procedure Form 12.932, identifying with particularity the documents which have been delivered and certifying the date of service of the financial affidavit and documents by that party. The party shall swear or affirm under oath that the disclosure is complete, accurate, and in compliance with this rule, unless the party indicates otherwise, with specificity, in the certificate of compliance. Except for the financial affidavit and child support guidelines worksheet, no documents produced under this rule shall be filed in the court file without a court order.

(j) **Child Support Guidelines Worksheet.** [No change]

(k) **Place of Production.** [No change]

(l) **Failure of Defaulted Party to Comply.** [No change]

Commentary

[No change]

Committee Notes

1997 Amendment. [No change]

[Editorial change]

This subdivision is being amended to require that a party making mandatory disclosure swear or affirm under oath that the disclosure is complete, accurate, and in compliance with the requirements of Rule 12.285, unless the party indicates otherwise, with specificity, in the Certificate of Compliance with Mandatory Disclosure (Fla. Fam. L. R. P. Form 12.932). As indicated in the proposed Committee Note, the amendment is intended to facilitate full disclosure and prevent a party from alleging that he or she did not know about the requirements of Rule 12.285. The new requirement is also intended to shift the burden of disclosure from the attorney to the party, making it clear that it is the party's duty to provide disclosure.



1998 Amendment. [No change]

2006 Amendment. The requirement that a party certify compliance with mandatory disclosure is intended to facilitate full disclosure and prevent a party from alleging that he or she did not know that he or she had to provide documents required by this rule. It is also intended to shift the burden of disclosure from the attorney to the party, making clear that it is the party's duty to disclose. This certification does not relieve the party of the duty to supplement disclosure.

INSTRUCTIONS FOR FLORIDA FAMILY LAW RULES OF PROCEDURE FORM 12.932
CERTIFICATE OF COMPLIANCE WITH MANDATORY DISCLOSURE

When should this form be used?

Mandatory disclosure requires each **party** in a **dissolution of marriage** case to provide the other party with certain financial information and documents. These documents must be provided by mail or hand delivery to the other party within 45 days of **service** of the petition for **dissolution of marriage** or supplemental petition for modification on the **respondent**. The mandatory disclosure rule applies to all original and **supplemental** dissolution of marriage cases, except simplified dissolution of marriage cases and cases where the respondent is served by **constructive service** and does not answer. You should use this form to notify the court and the other party that you have complied with the mandatory disclosure rule.

Each party must provide the other party with the documents listed in section 2 of this form if the relief being sought is permanent regardless of whether it is an initial or supplemental proceeding. Of the documents listed on this form, the **financial affidavit and child support guidelines worksheet** are the only documents that must be **filed** with the court **and** sent to the other party; all other documents should be sent to the other party but not filed with the court. If your individual gross annual income is under \$50,000, you should complete the **Family Law Financial Affidavit (Short Form)**,  Florida Family Law Rules of Procedure Form 12.902(b). If your individual gross annual income is \$50,000 or more, you should complete the **Family Law Financial Affidavit**,  Florida Family Law Rules of Procedure Form 12.902(c).

In addition, there are separate mandatory disclosure requirements that apply to **temporary financial hearings**, which are listed in section 1 of this form. The party seeking temporary financial relief must serve these documents on the other party with the notice of temporary financial hearing. The responding party must either deliver the required documents to the party seeking temporary financial relief on or before 5:00 p.m., 2 business days before the hearing on temporary financial relief, **or** mail (postmark) them to the party seeking temporary financial relief 7 days before the hearing on temporary financial relief. Any documents that have already been served under the requirements for temporary or initial proceedings, do not need to be re-served again in the same proceeding. If a supplemental petition is filed, seeking modification, then the mandatory disclosure requirements begin again.

This form should be typed or printed in black ink. After completing this form, you should **file** the original with the **clerk of the circuit court** in the county where your case is filed and keep a copy for your records. A copy of this form must be mailed **or** hand delivered to any other party in your case.

What should I do next?



After you have provided the other party all of the financial information and documents and have filed this form certifying that you have complied with this rule, you are under a continuing duty to promptly give the other party any information or documents that change your financial status or that make the information already provided inaccurate. You should not file with the clerk any of the documents listed in the certificate of compliance other than the financial affidavit and child support guidelines worksheet. Refer to the instructions regarding the **petition** in your case to determine how you should proceed after filing this form.


Where can I look for more information?


Before proceeding, you should read General Information for Self-Represented Litigants found at the beginning of these forms. For further information, see rule 12.285, Florida Family Law Rules of Procedure.

Special notes...

You may provide copies of required documents; however, the originals must be produced for inspection if the other party requests to see them.

Although the financial affidavits are based on individual gross income, either party may ask the other party to complete the **Family Law Financial Affidavit**, , by serving the appropriate interrogatory form. (See **Standard Family Law Interrogatories**, , (original proceedings) or (c) (modification proceedings)).

Any portion of the mandatory disclosure rule may be modified by order of the **judge** or agreement of the parties. Therefore, you and your **spouse** may agree that you will not require each other to produce the documents required under the mandatory disclosure rule. This exception does **not** apply to the **Financial Affidavit**, , which is required in all cases and cannot be waived.

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 **Disclosure from Nonlawyer**, , 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.

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

Case No.: _____

Division: _____

Petitioner,

and

Respondent.

CERTIFICATE OF COMPLIANCE WITH MANDATORY DISCLOSURE

I, *{full legal name}* _____, certify that I have complied with the mandatory disclosure required by Florida Family Law Rule 12.285 as follows:

1. I. FOR TEMPORARY FINANCIAL RELIEF, ONLY:

The date the following documents were served: _____

[all that apply]

- _____ a. Financial Affidavit (Filing of a Financial Affidavit cannot be waived.)
() Florida Family Law Rules of Procedure Form 12.902(b) (short form)
() Florida Family Law Rules of Procedure Form 12.902(c) (long form)
- _____ b. () All personal (1040) federal tax, gift tax, and intangible personal property tax returns for the preceding year; or
() Transcript of tax return as provided by IRS form 4506; or
() IRS forms W-2, 1099, and K-1 for the past year because the income tax return for the past year has not been prepared.
- _____ c. Pay stubs or other evidence of earned income for the 3 months before the service of the financial affidavit.

2. FOR INITIAL, SUPPLEMENTAL, AND PERMANENT FINANCIAL RELIEF:

The date the following documents were served: _____

[all that apply]

- _____ a. Financial Affidavit (Filing of a Financial Affidavit cannot be waived.)
() Florida Family Law Rules of Procedure Form 12.902(b) (short form)
() Florida Family Law Rules of Procedure Form 12.902(c) (long form)
- _____ b. () All personal (1040) federal and state tax income returns, gift tax returns, and intangible personal property tax returns for the preceding 3 years;
() IRS forms W-2, 1099, and K-1 for the past year because the income tax return for the past year has not been prepared.
- _____ c. Pay stubs or other evidence of earned income for the 3 months before the service of the financial affidavit.
- _____ d. A statement identifying the source and amount of all income for the 3 months before the service of the financial affidavit, if not reflected on the pay stubs produced.

- ___ e. All loan applications and financial statements prepared for any purpose or used for any purpose within the 12 months preceding the service of the financial affidavit.
- ___ f. All deeds to real estate in which I presently own or owned an interest within the past 3 years. All promissory notes in which I presently own or owned an interest within the last 12 months. All present leases in which I own an interest.
- ___ g. All periodic statements for the last 3 months for all checking accounts and for the last year for all savings accounts, money market funds, certificates of deposit, etc.
- ___ h. All brokerage account statements for the last 12 months.
- ___ i. Most recent statement for any pension, profit sharing, deferred compensation, or retirement plan (for example, IRA, 401(k), 403(b), SEP, KEOGH, etc.) and summary plan description for any such plan in which I am a participant or alternate payee.
- ___ j. The declarations page, the last periodic statement, and the certificate for any group insurance for all life insurance policies insuring my life or the life of my spouse.
- ___ k. All health and dental insurance cards covering either of me or my spouse and/or our dependent child(ren).
- ___ l. Corporate, partnership, and trust tax returns for the last 3 tax years, in which I have an ownership or interest greater than or equal to 30%.
- ___ m. All credit card and charge account statements and other records showing my(our) indebtedness as of the date of the filing of this action and for the prior 3 months. All promissory notes on which I presently owe or owed within the past year. All lease agreements I presently owe.
- ___ n. All premarital and marital agreements between the parties to this case.
- ___ o. If a modification proceeding, all written agreements entered into between the parties at any time since the order to be modified was entered.
- ___ p. All documents and tangible evidence relating to claims for special equity or nonmarital status of an asset or debt.
- ___ q. Any court order directing that I pay or receive spousal support (alimony) or child support.

I certify that a copy of this document was [v **one** only] () mailed () faxed and mailed () hand delivered to the person(s) listed below on {date} _____

I understand that I am swearing or affirming under oath to the accuracy of my compliance with the mandatory disclosure requirements of Fla. Fam. L. R. P. 12.285 and that, unless otherwise indicated with specificity, this disclosure is complete. I further understand that the punishment for knowingly making a false statement or incomplete disclosure includes fines and/or imprisonment.

Other party or his/her attorney:

Name: _____
 Address: _____
 City, State, Zip: _____
 Fax Number: _____
 Dated: _____

 Signature of Party
 Printed Name: _____
 Address: _____
 City, State, Zip: _____

Telephone Number: _____

Fax Number: _____

STATE OF FLORIDA

COUNTY OF _____

Sworn to or affirmed and signed before me on _____ by _____.

NOTARY PUBLIC or DEPUTY CLERK

[Print, type, or stamp commissioned name of
notary or clerk.]

____ Personally known

____ Produced identification

Type of identification produced: _____

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS

BELOW: [~~do~~ fill in **all** blanks]

I, *{full legal name and trade name of nonlawyer}* _____,
a nonlawyer, located at *{street}* _____, *{city}* _____,
{state} _____, *{phone}* _____, helped *{name}* _____,
who is the [**one** only] ___ petitioner **or** ___ respondent, fill out this form.