

MOTION FOR TEMPORARY ORDER WITHOUT NOTICE



PINAL COUNTY

INSTRUCTIONS AND FORMS

**Provided as a Public Service by
AMANDA STANFORD
Clerk of the Superior Court**

WHEN FILING EMERGENCY DOCUMENTS

YOUR FILING FEE IS _____

1. Make sure you file these documents in the Florence Superior Court Office only.
2. You will need to come as early as possible, try to come no later than **2:00 p.m.** This will allow the Court enough time to process your request. **PLEASE NOTE:** the Court is trying to schedule in your Emergency Request within a Judges existing scheduled hearings. **Processing an emergency motion is at least a 2-3 hour process.**
3. Please make sure your forms are **TYPED** or filled out in **BLACK INK ONLY.**
4. Do not write on the back of your documents/forms (no double sided documents). Use blank sheets of paper for additional statements, **NO LINED PAPER.**

PLEASE READ

When filing emergency documents in the Court please be prepared to wait, this is a lengthy process.

- **The Court asks that you do not bring children, they are not allowed in the Courtroom.**
- **If you come later than 4:00 p.m., the Court may not complete the processing of your emergency request, therefore you may need to return the next business day.**

WHEN CAN I GET AN EMERGENCY COURT ORDER?

If your child has been harmed by the other parent or is in immediate danger of harm in the care of the other parent, you have several options available to protect the child. Those options include the following:

1. Contact law enforcement if your child has been harmed by a parent;
2. Contact Child Protective services if your child is in danger;
3. Seek an order of protection if the child has been harmed or may be harmed by domestic violence;
4. Ask a Court for an emergency order without notice to the other party (available in limited circumstances);
5. Ask a Court for an expedited hearing with the other parent to address the protection of the child.

Generally, the Court CANNOT grant a request for an order unless the other party has notice of the order being requested and an opportunity to be heard by the Court regarding the request. In very limited cases, however, the Court can issue an emergency order without providing the other party notice of the requested order. An order issued without notice to the other party is known as an “*ex parte* order”.

Rule 48 of the Arizona Rules of Family Law Procedure governs when a Court may issue an *ex parte* emergency order. In summary, the Rule requires the following:

Required Paperwork: A party seeking a temporary *ex parte* order without notice shall do so by filing a motion, verified or supported by affidavit, together with a proposed form of order, and a notice of hearing on the motion. The motion shall be filed after or concurrently with an initial pre-decree, post-decree or post-judgment petition.

Circumstances Justifying an Ex Parte Order Exist: A temporary order may be granted without written or oral notice to the other party or that party's attorney ONLY if:

1. It **clearly appears** from **specific facts shown by affidavit or by the verified motion** that **irreparable injury** will result to the moving party or a minor child of the party, or that irreparable injury, loss, or damage will result to the separate or community property of the party if no order is issued before the other party can be heard in opposition; **and**
2. The moving party or the party's attorney certifies to the court, in writing, the efforts, if any, that have been made to give the notice to the other party or the **reasons supporting the claim that notice should not be required**. *Rule 48(A), Arizona Rules of Family Law Procedure, (emphasis added).*

You must fully satisfy all of the requirements of this Rule for the Court to issue an emergency *ex parte* order. If your situation does not meet the requirements of this rule, you will not be granted an emergency *ex parte* order.

If you need the Court to address a matter urgently but do not qualify for an emergency *ex parte* order, you may file a request for an “Expedited Hearing”. If the Court finds good cause for the request, it can set a hearing for you and the other party to come to court. The Judge will hear from both parties on the issue in dispute.

Name of Person Filing: _____
Street Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Email Address: _____
ATLAS Number (if applicable) _____
 Representing Self (No Attorney) or Represented by Attorney
If Attorney, Bar Number: _____

**SUPERIOR COURT OF ARIZONA
PINAL COUNTY**

Name of Petitioner

CASE NUMBER: S1100DO2

**MOTION FOR TEMPORARY ORDER
WITHOUT NOTICE**

- For Legal Decision-Making
- To Stop or Change Parenting Time
- Other

Name of Respondent

HONORABLE: _____

I, _____ **MAKE THE FOLLOWING**
(Name of Person asking for Emergency Order)

STATEMENTS TO THE COURT UNDER OATH pursuant to Rule 65(d) A.R.Civ.P.

- 1. REASONS WHY I NEED THIS ORDER.** Explain in detail the emergency facts which now exist, what injury you fear could occur, why you need this Order immediately, and why an emergency order is the only way to solve the problem: (Use additional paper if necessary):

2. NOTICE TO THE OTHER PARTY. Answer one of the following about notice to the other party:

This is how I gave notice to the other party or his or her attorney:
Whom I gave notice to: _____
When I gave notice: _____
How I gave notice: _____

This is how I tried to give notice to the other party or his or her attorney:
Whom I tried to give notice to: _____
When: _____
How: _____

I did not try to give advanced notice: Explain what injury, loss or damage you would suffer if you gave the other party advance notice of this motion.

3. PEOPLE INVOLVED. This Motion concerns the following people:

This is how I gave notice to the other party or his or her attorney:

Name of Mother: _____
Name of Father: _____
Name of Other People: _____
Names of Children and their ages: _____

4. DIVORCE OR OTHER PETITION: You cannot file this motion unless you or the other party has already filed or you are filing one of the following petitions:

A. I or the other party filed in the Superior Court in Pinal County a (check one box)

- “Petition for Divorce, or Legal Separation, or Annulment”***
- “Petition for Legal Decision-Making/Parenting Time”*** (first court order for paternity and/or support has been established)
- “Petition for Parenting Time”*** (first court order for paternity and/or support has been established)

Date Petition was filed _____.

B. I FILED a “regular” Petition for modification of legal decision-making (legal custody) and/or parenting time in the Superior Court of Arizona in Pinal County on this date: _____. I attached a copy of that petition to the Judge’s copy and to the other party’s copy of this Motion.

I WILL FILE a “regular” Petition for modification of legal decision-making (legal custody) and/or parenting time in the Superior Court of Arizona in Pinal County AT THE SAME TIME I file this TEMPORARY EMERGENCY Motion I will attach a copy of that petition to the Judge’s copy of this Motion and to the other party’s copy of this Motion.

5. **INFORMATION ABOUT OTHER EMERGENCY CASES INVOLVING THE PARTIES OR THE CHILD(REN):** Check the boxes that apply and then write in the information requested.

Current emergency cases: To the best of my knowledge, there are no pending proceedings for emergency orders about the child(ren) in any other court. (If this is not a true statement, see a lawyer for help.)

Past emergency cases: Either or both parties have filed for emergency court orders in the past. (If so, you must complete the following information. Use additional paper if necessary.)

Name of Parties: _____

Date of order, judgment, dismissal, etc. _____

Explain what order or judgment said, or basis for dismissal: _____

Court Case Number: _____

Location of Court (city and state) _____

6. **ALL OTHER COURT CASES INVOLVING EITHER OR BOTH OF THE PARTIES:** Describe all other court cases that involve either or both of the parties, whether pending or not, including criminal cases. Complete all the information for each court order (use extra paper if necessary)

A. Name of Parties: _____

B. Court Case Number: _____

Location of court (city and state): _____

C. What Order or Judgment stated: _____

D. Explain Type of Case: (Criminal, Order of Protection, Divorce, Paternity, etc.)

Status of Case Now

Final Order Entered; Case is Over. Date Order/Judgment signed: _____

Hearing Date Set On (date): _____ at (time) _____

Location / Address: _____

Other (explain in detail): _____

7. **ANY OTHER GOVERNMENT AGENCY INVOLVEMENT WITH EITHER OR BOTH THESE PARTIES, OR THESE CHILDREN:** State whether there have been or are any complaints with or investigations by any government agency, including Child Protective Services, involving the parties or the child(ren). If so, explain the agency, date, type of case, and status of case right now.

8. **CRIMES OF EITHER PARTY:** Explain here if either parent or people involved with this Motion have been charged with committing a **dangerous crime** including child molestation or domestic violence:

I MAKE THE FOLLOWING REQUESTS TO THE COURT:

1. For a temporary order without notice as follows: Check the boxes that apply:

Awarding me Temporary Emergency Legal Decision-Making of the child(ren) until a full court hearing.

Entering a ***“Temporary Emergency Order”*** about Parenting time Rights.

Name of Person Filing: _____
Street Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Email Address: _____
ATLAS Number (if applicable) _____
 Representing Self (No Attorney) or Represented by Attorney
If Attorney, Bar Number: _____

**SUPERIOR COURT OF ARIZONA
PINAL COUNTY**

_____ **CASE NUMBER: S1100DO2** _____
Name of Petitioner

TEMPORARY ORDER REGARDING

- Child Legal Decision-Making
 Parenting Time
 Without Advance Notice
 Other: _____

_____ **HONORABLE:** _____
Name of Respondent

THIS IS AN IMPORTANT COURT ORDER THAT AFFECTS YOUR RIGHTS. READ THIS ORDER CAREFULLY. IF YOU DO NOT UNDERSTAND THIS ORDER, CONTACT AN ATTORNEY FOR LEGAL ADVICE.

THE COURT FINDS:

1. INFORMATION ABOUT PETITIONS.

A "Petition for Dissolution of Marriage, or Legal Separation, or Legal Decision-Making/Parenting Time" or "Modification of Legal Decision-Making and/or Parenting Time" was filed on

_____ by _____

A "Motion for Temporary Orders" was filed on _____
by _____

A "Motion for Temporary Orders without Notice" was filed on _____
by _____

The Court read the Motion, took testimony if relevant, considered all matters and issues an emergency temporary order.

EMERGENCY SITUATION. The court has found that an emergency exists and this order must be entered immediately to avoid irreparable harm because:

- Someone is about to cause serious bodily harm to another person immediately, OR
- The health, safety, and welfare of a person is otherwise in serious and immediate jeopardy as follows (describe):

2. NO ADVANCE NOTICE. Applicable only if this is an Temporary Order without Notice:

- Advance notice of this order was not required to be given to the other party or his or her attorney or others entitled to prior notice because:
 - The petitioning party tried with due diligence to give advanced notice to all parties but was unable; **or**
 - Advanced notice is not required because to do so would result in immediate and irreparable injury, loss, or damage to the petitioning party before the other party can be heard.

3. BEST INTEREST OF THE CHILDREN. This order is made in the best interest of the following child(ren):

Name: _____	Date of Birth: _____
Name: _____	Date of Birth: _____
Name: _____	Date of Birth: _____

THE COURT ORDERS:

- 1. **EMERGENCY TEMPORARY CHILD LEGAL DECISION-MAKING** is awarded to:

_____ as follows: _____

2. **EMERGENCY TEMPORARY PARENTING TIME** shall be as follows: _____

3. **OTHER EMERGENCY TEMPORARY ORDERS:** _____

4. **THIS ORDER SHALL CONTINUE** until:

_____ (date), **OR**

For Emergency Orders without Notice until (date) _____
unless extended by the court, or by agreement between the parties in writing
and filed with this court.

5. **SERVICE AND NOTICE TO THE OTHER PARTY:**

NO NOTICE GIVEN PRIOR TO FILING THE MOTION FOR TEMPORARY ORDERS WITHOUT NOTICE. The person who requested this Order shall properly serve or give actual notice to the other party by serving the following document, if filed with the court:

- a. "Petition for Dissolution, or Legal Separation, or Annulment, or Legal Decision-Making/Parenting Time," or "Modification of Legal Decision-Making and/or Parenting Time" and
- b. ***"Motion for Temporary Order"*** and
- c. ***"Motion for Temporary Order without Notice"*** and
- d. A copy of this Order, and
- e. A copy of the ***"Order to Appear"*** and
- f. A copy of all other documents filed in support of all Petitions, and
- g. A blank copy of the ***"Affidavit of Financial Information"*** and the ***"Parent's Child Support Worksheet"*** (if child support requested).

NOTICE GIVEN PRIOR TO FILING THE MOTION FOR TEMPORARY ORDERS WITHOUT NOTICE BUT THE OTHER PARTY FAILS TO APPEAR OR RESPOND.

The person who requested this Order shall properly serve or give actual notice to the other party by serving the following documents:

- a. A copy of this ***"Motion for Temporary Order without Notice"*** and
- b. A copy of the ***"Order to Appear"*** (if signed by the judge)

6. **BOND** in the amount of \$_____ shall be posted by:

(except by the State of Arizona) with the Clerk of the Court no later than (date/time)
_____ as security for the payment of costs and damages
that may be incurred or suffered by any party who is wrongfully ordered not to do
something according to this Order.

7. **IMPORTANT NOTICE TO THE PARTIES.** An ***“Order to Appear”*** has also been entered for the judge to hear the testimony of both sides to this dispute, and to decide whether to extend, change, or cancel this Order. The person who asked for this Emergency Temporary Order is required to serve upon the other party a copy of that Order to Appear. Be sure you know when the hearing is scheduled and come to the hearing. Failure to come could result in a civil arrest warrant being issued against you.

DONE IN OPEN COURT: _____

JUDGE OF SUPERIOR COURT OF ARIZONA

Name of Person Filing: _____
Street Address: _____
City, State, Zip Code: _____
Telephone Number: _____
Email Address: _____
ATLAS Number (if applicable) _____
 Representing Self (No Attorney) or Represented by Attorney
If Attorney, Bar Number: _____

SUPERIOR COURT OF ARIZONA
PINAL COUNTY

_____ CASE NUMBER: S1100DO2
Name of Petitioner

ORDER TO APPEAR
IN COURT ON MOTION FOR
TEMPORARY ORDERS WITHOUT
NOTICE

_____ HONORABLE: _____
Name of Respondent

READ ME: This is an important Court Order that affects your rights. Read this Order carefully. If you do not understand this Order, contact an attorney for legal advice.

A Motion for Temporary Order without Notice was filed with the Court. Based on the Motion and all other documents filed with it, and pursuant to Arizona Law,

IT IS ORDERED THAT YOU _____
appear at the time and place stated below so the court can determine whether the relief asked for in the *“Motion for Temporary Orders without Notice”* should be granted.

INFORMATION ABOUT COURT HEARING TO BE HELD:

NAME OF JUDICIAL OFFICER: _____

DATE AND TIME OF HEARING: _____

PLACE OF HEARING: PINAL COUNTY SUPERIOR COURT

ADDRESS OF HEARING: Pinal County Justice Complex
971 Jason Lopez Circle, Building A
Florence AZ 85132

FAILURE TO APPEAR AT THE HEARING MAY RESULT IN THE COURT ISSUING A CIVIL ARREST WARRANT, OR WHERE APPLICABLE, A CHILD SUPPORT ARREST WARRANT, FOR YOUR ARREST. IF YOU ARE ARRESTED, YOU MAY BE HELD IN JAIL FOR NO MORE THAN 24 HOURS BEFORE A HEARING IS HELD.

IT IS FURTHER ORDERED that a copy of this *“Order to Appear”* and a copy of the Motion and documents filed with the Motion shall be **legally served** by the party initiating the action on the responding parties who are required to appear and a copy of these documents shall be mailed immediately to parties who have appeared in this action, in accordance with Arizona Rules of Civil Procedures, Rule 5. The copies of the papers must be served at least _____ days before the hearing.

At the hearing, the Judge will listen to the testimony from both parties and their witness and decide whether to grant Temporary Order without Notice, or if and Temporary Order without Notice is already issued, whether to modify or revoke the Temporary Order without Notice and whether any other orders should be entered. The Judge may also decide which party will be ordered to pay the filing and other court fees caused as a result of the filing of the Motion for Temporary Order without Notice.

Requests for reasonable accommodation for persons with disabilities must be made to the office of the judge or Commissioner scheduled to hear this case five days before your scheduled court date.

DONE IN OPEN COURT: _____
Judge/Commissioner of the Superior Court

READ ME. This proceeding shall not exceed 20 minutes with the court. The court will determine if more time is needed. **All parties, whether represented by attorneys or not, must be present.** If there is a failure to appear, the court may make such orders as are just, including granting the relief requested by the party who does appear. If the Motion seeks to establish, modify or enforce child support, and you fail to appear as ordered, a child support arrest warrant may be issued for your arrest.