

REQUEST FOR ORDER - TEMPORARY CUSTODY ORDERS

1. WRITE A DECLARATION: READ Local Rule 9.12 on the back BEFORE WRITING.

TIPS on WRITING A DECLARATION:

First: Explain exactly what you want the court to order.

Second: Explain the emergency– what specific harm will occur without the order.

Third: Explain how you know this harm will occur. Avoid general fears or wishes, use specific facts, dates and times of every act or incident that leads your concerns. Use “quotes” if there were threatening words, or statements that lead you to believe harm will occur.

Fourth: Include other information the court should know in considering your request.

Corroboration: You may include witness declarations or other documentation supporting your statement.

Signatures of yourself or other witnesses must be under penalty of perjury: “This declaration is made under penalty of perjury under the laws of the State of California on _____ (date) in _____ (name of town you are in when signing). California.

2. ASSEMBLE YOUR PAPERS: Four identical packets: One original, three copies, in this order.

FL-016 Declaration Regarding Notice of Request for Temporary Orders

FL-300 Request for Order

FL-305 Temporary Orders

FL-017 Further Order for Parties with Custody and Visitation Matters before Court (local form)

YOUR DECLARATION - See above, and local rules on the back.

3. FILING FEE Total Fee: \$150 to \$175: \$60 for Request for Order, \$60 for ExParte application if the order was granted and a hearing scheduled, \$25 if your order modifies a custody order, plus \$30 for a Court Reporter. If you are a Respondent and did not pay your initial filing fee, the fee will be \$435, plus \$30 for court reporter assessment cost. If you cannot afford the fees and costs, you may complete a Request to Waive Court Fees (FW-001) and Order on Court Fee Waiver (FW-003).

4. GIVE NOTICE TO THE OTHER PARTY: The other party must be informed of your intent to seek a temporary order from the court as a matter of due process - to give them the opportunity to tell their side of the situation. Notice must be given by 10:00 a.m. by the day before the Judge will review your request. It can be by telephone, voice mail, personal delivery, fax. You or another adult may give this notice. Notice can be waived if it is impossible, or if notice would frustrate the purpose of the order, or if immediate or irreparable harm would be suffered if notice were given.

5. DELIVER OF A COPY OF YOUR REQUEST: In addition to notice, you must deliver a copy of the packet you are submitting by 11:00 a.m. the day before the Judge is going to review your request. Delivery may be by personal delivery, fax, or US Mail. You or another adult may make this delivery. **Delivery by mail or fax extends the time in which the other party may submit an opposition, and when the Judge will review your request.**

6. DECLARATION REGARDING NOTICE REQUEST FOR TEMPORARY ORDERS – FL-016: Use this form to explain how and when you gave notice and delivery. Complete No. 1 to explain notice, and No. 2 to explain delivery. **See the time table on the back to see how delivery by mail, overnight mail, or fax effects when the Judge will review your papers. Fill in the date of review on the front.** You must submit this completed form to the court with your packet.

7. SUBMIT YOUR PACKET FOR THE JUDGE TO REVIEW:

Where: 3055 Cleveland Avenue, Family Law Clerks’ window, or the drop box at the front door.

When: Before 8:30 on day of review and after delivery of notice to the other party.

What: Your original packet plus 2 copies, plus your FL-016 Declaration Regarding Notice.

8. PICK UP PAPERS BETWEEN 2:00 and 3:30 P.M. ON DAY OF REVIEW at the Clerk’s office: See Back

9. HAVE OTHER PARTY PERSONALLY SERVED WITH ORDERS FOR THEM TO BE EFFECTIVE. Someone over the age of 18 may serve the signed orders and notice of hearing. You must file a Proof of Personal Service FL-330.

9.12 EMERGENCY AND DOMESTIC VIOLENCE EX PARTE ORDERS – LOCAL RULES

A. Ex Parte Orders

It is the policy of this court not to grant ex parte orders changing the status quo with respect to child custody, visitation or residence exclusion without a very strong factual showing of grave danger or severe detriment to the child prior to the time the issues can be properly set for a noticed hearing with both parties present and afforded an opportunity to be heard. The court may in its discretion refer the matter to Family Court Services for a child custody recommending counseling appointment prior to signing an order shortening time for the prompt calendaring of the matter at the earliest available OSC calendar.

B. Declarations

1. Factual Basis

All declarations shall be based upon personal knowledge of the declarant. Declarations containing hearsay are subject to a motion to strike the whole unless the hearsay is substantiated by a supplemental declaration by the hearsay declarant.

2. Extraordinary Relief

A very specific declaration must be given when extraordinary relief is sought. A specific declaration includes the dates of incidents, detailed descriptive facts and specific harm threatened or actually caused. Conclusions, feelings, wishes or fears alone will not support an ex parte order. Extraordinary relief includes without limitation: temporary custody of children, temporary possession and use of personal property, restriction of child visitation, or removal of one party from the family residence.

3. Declarations Upon Ex Parte Application

Ex parte orders are sometimes rendered without giving an opportunity for the parties to be personally seen and heard. The temptation to indulge on paper in unrestrained exaggeration is ever-present. Concealment of relevant facts is a danger. Accordingly, attorneys, parties and persons employed to type pleadings (typing services) shall adhere to the highest standards of full disclosure in preparing the declarations in support of ex parte orders.

INSTRUCTIONS AFTER SUBMISSION:

You may be required to appear in court at 1:30 p.m. on the day the Judge reviews your restraining order request. Be sure your application has a telephone number where you can be reached during business hours. The clerk's office will contact the submitting party and opposing party (if there is an opposition) if the Judge request a same day appearance. The clerk will attempt to notify you by 11:30 a.m.

Results are available via the court website at www.sonoma.courts.ca.gov under the Family Law Tentative Rulings, or by telephone at 707-521-6676, after 2:00 p.m. DO NOT LEAVE MESSAGES AS THIS VOICE MAIL DOES NOT GET CHECKED. There is a recorded message indicating if your request was (1) granted, (2) denied or (3) a hearing date was set but no temporary orders were granted. Any specific details and or questions will need to be addressed when you pick up your paperwork or by contacting Sonoma County Superior Court at (707) 521-6500 between the hours of 8:00 a.m. and 12:00 p.m. Monday through Friday (excluding holidays).

Please return to the Clerk's office after 2:00 p.m. to pick up your restraining order papers. Office hours are 8:00 a.m. to 3:30 p.m. Monday through Friday (excluding holidays).