



# Ex Parte Orders: Child Custody

## Process At-a-Glance



Ex Parte Emergency Temporary Orders in a Family Law Case can establish custody without notice to the other parent.

This order is put in place temporarily to protect the child/ren until a hearing can be held.

*This information is meant to be a general overview and guide. This is not a substitute for legal advice; it is always advisable to speak with an attorney if possible*

### Step One: Fill out forms

1. Fill out an **Ex Parte Motion for Emergency Temporary Custody**
2. Fill out an **Affidavit in Support of the Ex Parte Motion for Emergency Temporary Custody**
3. Fill out **Order Granting Emergency Temporary Custody**

### Step Two: File Forms

1. File both the Motion and Affidavit at your local courthouse
2. The clerk will stamp both copies with the time and date that they were filed with the court

### Step Three: Receive Order

**If** the Judge grants your Ex Parte Order,  
**Then** you will receive a signed copy in the mail with a hearing date

**OR**

**If** the Judge denies your Ex Parte Order,  
**Then** you will receive a copy of the denied Order in the mail

### Step Four: Attend Hearing

**If** the Judge grants your Ex Parte Order  
**Then** you will need to attend a hearing where the judge will decide whether the Order should remain in place or not

\*the hearing date and time will be listed on the Order Granting Emergency Temporary Custody\*



The other parent will **NOT** be notified when an Ex Parte Emergency Temporary Order is filed with the court but **WILL** be notified if it is granted **OR** denied.

\_\_\_\_\_  
**NAME**

\_\_\_\_\_  
**ADDRESS**

\_\_\_\_\_  
**CITY, STATE, ZIP CODE**

\_\_\_\_\_  
**TELEPHONE**

\_\_\_\_\_  
**EMAIL ADDRESS**

Petitioner  Respondent

IN THE DISTRICT COURT OF THE \_\_\_\_\_ JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF \_\_\_\_\_  
MAGISTRATE DIVISION

\_\_\_\_\_,  
Petitioner,  
v.  
\_\_\_\_\_,  
Respondent.

**Case No.** \_\_\_\_\_

**505 MOTION FOR EMERGENCY  
TEMPORARY CUSTODY**

**COMES NOW** \_\_\_\_\_ (*your name*), and respectfully  
moves the court for an Ex Parte Order granting \_\_\_\_\_ (*your  
name*) temporary custody of the parties minor children, pending further hearing, pursuant to  
Idaho Rules of Family Law Procedure 505 and Idaho Code §32-717 and in support states  
the following:

1. \_\_\_\_\_ (*your name*) should be granted  
temporary legal and physical custody of the minor child/ren:

\_\_\_\_\_

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with \_\_\_\_\_ (*name of other parent*) having visitation as follows: \_\_\_\_\_

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2. This Ex Parte Order is necessary pending the outcome of a final hearing in that an emergency situation exists for the reasons set forth in the accompanying Affidavit.

3. Allowing normal visitation to continue will place the children in a situation with the potential for irreparable injury and may well cause irreparable emotional and/or physical damage to the minor children.

4. \_\_\_\_\_ (*your name*) has not provided notice to the opposing party and should not be required to do so for the following reasons: \_\_\_\_\_

\_\_\_\_\_ **or**

\_\_\_\_\_ (*your name*) has provided notice to the opposing party by:

**DATED** this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
PRINT YOUR NAME

\_\_\_\_\_  
SIGN YOUR NAME



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3. I believe that my child/ren are in imminent danger for the following reasons: \_\_\_\_\_

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4. I believe my child/ren will suffer irreparable emotional and/or physical harm if I am not granted custody for the following reasons:

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5. If this Court does not grant me emergency temporary custody immediately and without time for the other parent to be heard, I worry the following will happen:

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**CERTIFICATION UNDER PENALTY OF PERJURY**

I certify under penalty of perjury pursuant to the law of the State of Idaho that the foregoing is true and correct.

**DATED** this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
(PRINT YOUR NAME)

\_\_\_\_\_  
(SIGN YOUR NAME)

\_\_\_\_\_  
**NAME**

\_\_\_\_\_  
**ADDRESS**

\_\_\_\_\_  
**CITY, STATE, ZIP CODE**

\_\_\_\_\_  
**TELEPHONE**

\_\_\_\_\_  
**EMAIL ADDRESS**

Petitioner  Respondent

IN THE DISTRICT COURT OF THE \_\_\_\_\_ JUDICIAL DISTRICT FOR THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF \_\_\_\_\_  
MAGISTRATE DIVISION

\_\_\_\_\_,  
Petitioner,  
v.  
\_\_\_\_\_,  
Respondent.

**Case No.** \_\_\_\_\_

**ORDER GRANTING  
EMERGENCY TEMPORARY  
CUSTODY**

**IT IS HEREBY ORDERED** that:

1. The following injury to the child/ren has  
occurred: \_\_\_\_\_

2. This injury is irreparable because:  
\_\_\_\_\_  
\_\_\_\_\_

3. Therefore, \_\_\_\_\_ (*your name*) shall have

temporary sole legal and physical custody of the minor child/ren (*names and birthdates*):

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4. This order is issued without notice based on good cause appearing in the Ex Parte Motion for Emergency Temporary Custody and accompanying Affidavit.

5. A hearing on this matter shall be held on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**DATED:** \_\_\_\_\_

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Magistrate Judge



**CLERK'S CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I caused a true and correct copy of the foregoing ORDER GRANTING EX PARTE EMERGENCY TEMPORARY CUSTODY to be served on those listed below in the manner indicated.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- U.S. Mail
- Overnight Mail
- Fax
- Hand Delivery
- E-File

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- U.S. Mail
- Overnight Mail
- Fax
- Hand Delivery
- E-File

**PHIL McGRANE**  
**Clerk of the Court**

\_\_\_\_\_  
By: County Clerk