

LAW LIBRARY AND RESOURCE CENTER

**INSTRUCTIONS: HOW TO FILL OUT THE “MOTION” AND
“ORDER” “FOR TEMPORARY ORDER WITHOUT NOTICE”**

WRITE NEATLY. USE BLACK INK.

STEP 1: Complete the “*Motion for Temporary Modification Order without Notice*”.

- Fill in the information requested about you at top, left, and the case caption. The names of the Petitioner and Respondent should be the same as on the Petition for Dissolution, Legal Separation, Annulment, Custody or Parenting Time.
- Check the box to say whether you are asking for a temporary modification without notice concerning legal decision-making and/or parenting time. If you are asking for anything other than legal decision-making and/or parenting time, check the box for “Other”, and write in your request.

Match the numbered instruction below to the matching number on the forms

1. Print your name as the person asking for the “*Temporary Modification Order Without Notice*”
2. **REASONS WHY I NEED THIS ORDER.** Write in the reasons why you need this order. Explain the reasons in detail and be very specific. Use additional paper if necessary. Explain the emergency facts that now exist and what *irreparable injury* you fear could occur without this Order. An “irreparable injury” is one that cannot be “repaired”, a serious or life-threatening injury or damage to you or the minor children that cannot be prevented or undone. If you have questions about whether you should request a temporary order without notice, see a lawyer for help.
3. **PEOPLE INVOLVED.** Write in the name of the mother, father, other people (such as legal guardians or others who claim custody or have possession of the minor children), the name(s) of the minor children and the minor children’s ages.
4. **IMPORTANT! REQUIRED INFORMATION: You MUST check one of the boxes under #4 to indicate whether you gave, or attempted to give, notice of this request (Motion) to the other party (or parties), and EXPLAIN.**
If you did NOT give *OR* attempt to give notice of this motion, you MUST explain what irreparable injury (serious or life-threatening injury or damage to you or the minor children that cannot be prevented or undone) would result from giving advance notice of this Motion to the other party (or parties).
5. **MOTION FOR TEMPORARY MODIFICATION ORDERS *without* NOTICE.** You cannot file this Motion unless a **Petition for Modification** has been filed, or will be filed, at the same time as this Motion. On this Motion, write in the date the **Petition** was, or will be, filed.

6. **INFORMATION ABOUT OTHER EMERGENCY CASES INVOLVING THE PARTIES OR THE MINOR CHILDREN.** Check the boxes that apply and then write in the information requested.
7. **OTHER COURT CASES INVOLVING EITHER OR BOTH 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.
8. **ANY OTHER GOVERNMENT AGENCY INVOLVEMENT WITH EITHER OR BOTH THE PARTIES, OR CHILDREN.** State whether there have been or are any complaints with or investigations by any government agency, including the Department of Child Safety (“DCS”), involving the parties or the child(ren). If so, explain the agency, date, type of case, and status of case right now.
9. **CRIMES OF EITHER PARTY:** Explain here if either parent or people involved with this Petition have been charged with committing a dangerous crime including child molestation or domestic violence.

REQUESTS TO THE COURT:

1. Check the boxes that apply to request modification of legal decision-making and/or parenting time. Write in any other emergency orders that you think you need.
2. Then sign the document in front of a deputy clerk of court or a notary public. The clerk or notary public will date and sign the document too.

STEP: 2 Complete *only* the top portion of the form labeled “TEMPORARY MODIFICATION ORDER WITHOUT NOTICE”.

- Fill in the information in the case caption. This includes the name of the Petitioner, the name of the Respondent, and the Case Number.
- Who is Petitioner and who is the Respondent does not change in family law cases. The same party who was the Petitioner in the previous litigation is still the Petitioner now.
- The Temporary Modification Order Without Notice form is the document the Judge will sign if he or she agrees that an order must be issued right away without giving any advance notice to the other party. **This type of order is RARELY granted.**

STEP: 3 When you have completed both the “**Motion**” and “**Order**”, follow the instructions on the “Procedures” page (the last document in this packet).

A NOTE ABOUT NOTICE AND BONDS

- The law requires that a parent receive advance notice of a court action affecting a parent's rights regarding their children unless there is a very good reason not to give notice. Good reasons not to give advance notice include, but are not limited to, reasonable fear of death or bodily harm to yourself or someone else.
- The forms in this packet are to request temporary orders **WITHOUT NOTICE**, which means you are asking the Court to issue an order taking away someone's children without giving them advance notice or the opportunity to defend against or deny the accusations that caused the Court to issue the order.
- This is a very serious matter. The Judge will not grant the "*Temporary Order Without Notice*" unless the judge finds that irreparable injury, loss, or damage will occur without the order.
- All relevant information should be included in your request. The decision to grant or deny your request may be made solely on the information you put in your written request.
- Important information regarding **BOND REQUIREMENT**.
 - **Bonds are rarely required when temporary orders are entered.** It is very likely that no bond will be required by the judge on your temporary order request.
 - However, it is possible that the judge may require you to pay an amount of money to be held by the Clerk's Office as part of your temporary order. The money paid to the Clerk's Office is called a **bond**.
 - The payment of a bond can be ordered by the judge to cover any costs, fees, or damages that the other party might have if the judge determines, after a hearing occurs, that the request for temporary orders **without** notice was brought under false pretenses or in bad faith.
 - If a bond is ordered by the judge, you must pay the required amount to the Clerk's Office by the date listed in the judge's Order. After a hearing **with** notice to both parties occurs, the judge will determine if the bond will be refunded to you in full or if an amount of the bond will be paid to the other party.

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

Name of Petitioner: _____

Name of Respondent: _____

Name of Other Person: _____

Name of Other Person: _____

Name(s) of Children: _____

4. **REQUIRED INFORMATION: NOTICE OR REASONS WHY NOTICE WAS NOT ATTEMPTED.** Actual Notice regarding a request that affects another party’s rights concerning his or her minor children is normally required. Check the box to indicate whether you gave or attempted to give notice to any other parties or their attorneys.

I GAVE or ATTEMPTED TO GIVE NOTICE TO THE OTHER PARTY AS FOLLOWS: Explain when, how, and to whom you attempted to give notice.

Check here if continued on attached page(s).

OR,

I DID NOT ATTEMPT TO GIVE NOTICE BECAUSE:

If you checked this box you **MUST** explain what injury, loss, or damage you or the minor child(ren) would suffer if you gave the other party advance notice of this Motion.

Check here if continued on attached page(s).

5. **TEMPORARY ORDERS WITH NOTICE.**

I have filed or I will file WITH this petition a “regular” petition for modification of legal decision making (custody) and/or parenting time in the Superior Court of Arizona in Pima County. I have attached a copy of that petition to the Judge’s copy and to the other party’s copy of this Motion.

That request was filed, or is going to be filed today, on (month/day/year): _____

6. **INFORMATION ABOUT OTHER EMERGENCY CASES INVOLVING THE SAME PARTIES OR CHILDREN:** Check the boxes that apply and write in the information requested.

Current emergency cases: To the best of my knowledge, there are no pending proceedings for emergency orders about these children in any other court. **(If this is *not* a true statement, this Court may not be able to enter an Order and you may want to consult a lawyer for advice.)**

(Continued on next page.)

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

Names of Parties: _____

Date of Order, Judgment, Dismissal: _____ **Case No.** _____

Location of court (city and state): _____

Explain Type of Case: (Juvenile, Criminal, Order of Protection, etc.) _____

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

7. **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).

Names of Parties: _____

Date of Order, Judgment, Dismissal: _____ **Case No.** _____

Location of court (city and state): _____

Explain Type of Case: (Juvenile, Criminal, Order of Protection, etc.) _____

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

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): _____

8. **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 minor child(ren). **If so, explain the agency, date, type of case, and status of case.**

Check here if continued on attached page(s).

9. **CRIMES OF ANY PARTY:** Explain here if any party involved with this case has been charged with committing a **dangerous crime** including child molestation or domestic violence:

Check here if continued on attached page(s).

I MAKE THE FOLLOWING REQUESTS TO THE COURT:

1. For a **“Temporary Order Without Notice”** as follows: *(Check all that apply)*

- Granting me temporary sole legal decision-making of the minor child(ren) until a full court hearing.
- Suspending Petitioner’s Respondent’s parenting time until further order of the Court.
- Awarding me all temporary parenting time with the minor child(ren) until a full court hearing.
- Other (explain):

Check here if continued on attached page(s).

2. For a court hearing when the parties can testify about the facts related to this ***“Motion for a Temporary Order Without Notice”*** and any ***“Motion for Temporary Orders,”*** so that the judge can decide whether to continue or modify the terms of the Emergency Order.
3. For any other order that is in the best interests of the minor children named above.

UNDER OATH OR AFFIRMATION

I swear or affirm under penalty of perjury that the contents of this document are true and correct to the best of my knowledge and belief.

Date

Signature

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(Date)

(Notary seal)

Deputy Clerk or Notary Public

Person Filing: _____
 Address (if not protected): _____
 City, State, Zip Code: _____
 Telephone: _____
 Email Address: _____
 ATLAS Number: _____
 Lawyer's Bar Number: _____
 Representing Self, without a Lawyer or
 Attorney for Petitioner OR Respondent

ARIZONA SUPERIOR COURT, PIMA COUNTY

Case No. _____

_____ Petitioner

and

_____ Respondent

**POST-DECREE EMERGENCY
 TEMPORARY ORDERS FOR
 MODIFICATION OF**

- Legal Decision-Making
- Parenting Time
- Other: _____

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

****DO NOT WRITE BELOW THIS LINE****

THE COURT FINDS AS FOLLOWS:

1. INFORMATION ABOUT UNDERLYING PETITION.

A Verified Petition for Modification of Legal Decision-Making and/or Parenting Time was filed in this case on _____ (Date) by _____ (filing party)

2. BEST INTEREST OF THE MINOR CHILDREN.

These findings and orders are made in the best interest of the Minor children whose names and dates of birth (month/day/year) are listed below:

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

3. EMERGENCY SITUATION. Based on the allegations of the Motion, the Court finds as follows:

- The following irreparable injury will occur to the moving party or the parties' minor child(ren), or irreparable injury, loss, or damage will result to the separate or community property of the moving party unless the orders below are entered:
-
-
-
-

- The Court finds it appropriate for notice not to have been given to the other party.

- OR -

- It is NOT appropriate to enter temporary orders without notice to the other party, but an emergency situation exists requiring an accelerated hearing. The Court finds good cause to set an accelerated evidentiary hearing **with** notice to the other party.

- OR -

- The Court does not find good cause to grant the Motion for Temporary Order Without Notice.

THE COURT ORDERS AS FOLLOWS:

1. TEMPORARY LEGAL DECISION-MAKING.

- The request to temporarily modify legal decision-making is DENIED.
- The parties' legal decision-making authority is temporarily modified as follows:
 - Petitioner Respondent shall have temporary sole legal decision-making authority for the minor child(ren).

2. TEMPORARY PARENTING TIME.

- The request to temporarily modify parenting time is DENIED.
 - The parenting time schedule is temporarily modified as follows:
-
-
-
-

3. **EFFECTIVE DATE:** This Temporary Order is effective as of the date it is signed and shall remain in effect until _____ (*date*) unless extended by Court Order or agreement of the parties.

4. **HEARING.** (select a, b, or c)

a. The request for a hearing on the Motion is DENIED.

- OR -

b. The Court has granted a Temporary Order WITHOUT Notice and a hearing must be set within 10 days, unless the court extends the time for good cause.

NAME OF JUDGE: _____
DATE & TIME OF HEARING: _____
HEARING LOCATION: Pima County Superior Court
110 W Congress
Tucson, AZ 85701

Courtroom: _____

TIME ALLOTTED FOR HEARING: _____

- OR -

c. The Court has denied the Motion without notice but sets an accelerated hearing on the motion with notice.

NAME OF JUDGE: _____
DATE & TIME OF HEARING: _____
HEARING LOCATION: Pima County Superior Court
110 W Congress
Tucson, AZ 85701

Courtroom: _____

TIME ALLOTTED FOR HEARING: _____

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

The party who requested this Order must serve the other party with a copy of the Motion and Order. If a hearing has been scheduled, then service must be completed at least _____ days prior to the hearing. **FAILURE TO TIMELY SERVE THE OPPOSING PARTY MAY RESULT IN THIS TEMPORARY ORDER BEING VACATED (CANCELED).**

6. **BOND.**

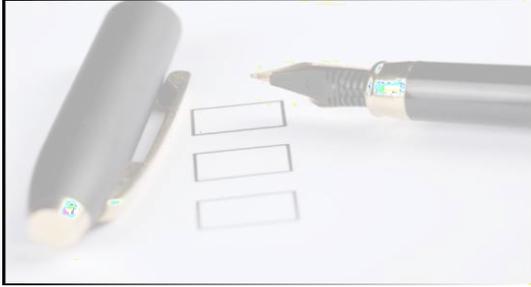
No bond is required.

OR

Bond in the amount of \$_____ must be posted with the Clerk of the Court by the party who filed the Motion by no later than _____ (*date*) by _____ (*time*). The posted bond is held as security for payment of costs and damages that may be incurred or suffered by any party as a result of this Order should it be determined that the basis of this order was false or without merit.

DATED: _____

JUDGE/COMMISSIONER



Instructions For Completing *Order To Appear*

You may type on the forms or write on them in black ink

The Caption

The Caption is the information in the upper left hand side of the first page of each form.

- **Personal information** – Fill in your name, street address, city, state, ZIPcode, and telephone number.

If you are a domestic violence victim, do not write your address on this form. Instead, write “Protected Address” and complete the *Request for Protected Address* form included in this packet.

- **Case No.** – If the order you are asking to have enforced was issued in Pima County, enter your Superior Court Case Number. Otherwise leave this space blank.
- **Petitioner** – Enter the Petitioner’s name, as found on the original Petition.
- **Respondent** – Enter the Respondent’s name, as found on the original Petition.

1. Provide the name of the other party in the first blank.
2. Estimate the amount of time the full hearing will take. Court schedules are done in 30-minute time blocks. Remember this is the time needed for **both parties** to present evidence and witnesses if necessary.

The Judicial Administrative Assistant will fill out the rest of this form, so you will not need to fill out any other part of this form.



The other party must receive notice of the hearing in order for your requests to be heard.

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
ATLAS Number: _____
Lawyer's Bar Number: _____
Representing Self, without a Lawyer or
 Attorney for Petitioner OR Respondent

ARIZONA SUPERIOR COURT, PIMA COUNTY

Case No. _____

Petitioner

and

ORDER TO APPEAR

Respondent

Based on documents filed 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 Petition or Motion should be granted.

INFORMATION ABOUT COURT HEARING TO BE HELD:

TYPE OF HEARING _____

EVIDENCE WILL OR WILL NOT BE PRESENTED

NAME OF JUDICIAL OFFICER: _____

DATE AND TIME OF HEARING: _____

PLACE OF HEARING: 110 W. Congress, Tucson, Arizona, Courtroom: _____

THIS HEARING WILL BE IN PERSON TELEPHONIC TEAMS VIDEO

TIME ALLOTTED FOR HEARING: _____

ADDITIONAL INFORMATION _____

WARNING: 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.

FAILURE TO APPEAR AT THE HEARING MAY RESULT IN THE COURT ISSUING A CIVIL OR CHILD SUPPORT ARREST WARRANT WHERE APPLICABLE. If you are arrested, you may be held in jail for no more than 24 hours before a hearing is held.

This is an important court order that affects your rights. If you do not understand this order, contact an attorney for help.

IT IS FURTHER ORDERED that a copy of this “Order to Appear,” a copy of the documents filed with the Motion, *a blank copy of the required financial affidavit, and a copy of Pima County Local Rule 3.5 shall* be served by the moving party on the 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 the Arizona Rules of Family Law Procedure, Rule 43.

IT IS FURTHER ORDERED that the parties and counsel shall meet and confer, comply with the disclosure requirements of Rule 49 of the Arizona Rules of Family Law Procedure, and complete a Financial Affidavit on a form approved by the court. At least 3 days before an evidentiary hearing, the parties shall exchange any exhibits to be presented at the hearing and a list of the names, addresses, and telephone number of ALL witnesses who may testify.

If you need the services of an interpreter for your hearing, you must submit an Interpretation Services Request. The form can be found on the Pima County Superior Court website here: <https://www.sc.pima.gov/services/court-interpretation-and-translation-services/forms/>. Requests should be submitted as soon as possible to ensure an interpreter is available.

Requests for reasonable accommodation for persons with disabilities must be made to the office of the assigned judicial officer and to the ADA Coordinator 5 days before your scheduled court date.

Date

Judicial Officer

LAW LIBRARY AND RESOURCE CENTER
PROCEDURES: MOTION FOR TEMPORARY ORDERS
WITHOUT NOTICE FOR MODIFICATION OF CHILD
CUSTODY AND/OR PARENTING TIME

- STEP 1.** Complete the *“Motion for Temporary Orders Without Notice.”*
- STEP 2.** **Make copies of all the paperwork.** Make 3 copies of *“Motion”* and *“Order”* forms. Assemble the copies so that you have 4 SETS of PAPERS: One set of originals and 3 sets of the copies.
- STEP 3.** **File the papers at the court.** Take the **original and 3 sets of copies to the Clerk of the Court filing counter.**
- STEP 4.** **WHAT THE CLERK WILL DO:** The Clerk will file the original of the *“Motion for Temporary Orders Without Notice.”* The Clerk will give you back clerk-stamped copies of the documents to show the documents were filed. The Clerk will then direct you to Family Court Administration or to the Judge who will hear your case.
- STEP 5.** **What the Judge will do:** The Judge will look over the *“Motion for Temporary Order Without Notice.”* The Judge may sign the *“Temporary Order Without Notice,”* deny your motion, OR schedule a court hearing.
- STEP 6.** **Serve the court papers.** If the Judge issues the temporary order without notice and/or schedules a hearing, **YOU** must legally serve the other party with a full set of the court papers.
- STEP 7.** **The court hearing:** If the Judge schedules a hearing, be sure to write down the date, time, and place of the court hearing, and come to the hearing. Be prepared to present your evidence about why the Judge should sign your Order.

DO NOT BRING CHILDREN TO COURT.