

INSTRUCTIONS FOR THE *EX PARTE* TEMPORARY CUSTODY FORM PACKET

THE FAMILY COURT OF EAST BATON ROUGE PARISH

SELF-HELP RESOURCE CENTER

**Located on the Fourth Floor
Nineteenth Judicial District
Courthouse
300 North Boulevard
Baton Rouge, LA
Tues. & Thurs. 10 am – 2 pm**

The staff cannot give you legal advice, but they may be able to give you legal information and can help you fill out these forms.

You can also find form packets and other resources online at www.familycourt.org.

These instructions are meant to guide you through the process of getting immediate temporary custody of your child(ren). The law allows you to use this process if immediate and irreparable injury will result to the child(ren) before you can have a full custody hearing. This should only be used in true emergencies.

This packet of forms is not legal advice and cannot take the place of the advice that a lawyer can give you. It is always best to speak with a lawyer before taking any legal action. **When you represent yourself in court, you must follow all the proper procedures and the law. It is your responsibility to see your case through the whole process.**

UNDERSTANDING *EX PARTE* ORDERS



Before you start filling out the paperwork, it is important that you understand what an ex parte custody proceeding is. This is a very complicated procedure.

Ex parte custody orders are generally hard to get compared to regular custody orders. Here are some things you need to know about this procedure:

- The court will only issue an *ex parte* custody order in a true case of emergency. The law requires that you prove that immediate and irreparable injury will come to the child(ren) unless you get custody of the child(ren).
- This procedure is time sensitive. You will have to do certain things by a certain time to get an *ex parte* custody hearing on the day that you request the hearing. If you cannot do everything you are required to do at the correct times, the judge may reassign your hearing to the next court date.
 - You must give notice to the court by 10 a.m. See Step 1 for more information.
 - You must file your paperwork by noon. See Step 4 for more information.
 - Your hearing will generally be at 2 p.m., unless the court staff sets a different time. See Step 5 for more information.
- If the court grants your request, you will get an order giving you custody of the child(ren) immediately. This order will only last for 30 days. You will have to come back to court to get a permanent order.
- The *ex parte* custody will be heard by the

To get an *ex parte* custody order, you must do everything required by law and the court rules. For your information, you may want to refer to Louisiana Code of Civil Procedure article 3945 and Rule 7 of the Local Rules of The Family Court of East Baton Rouge Parish.

STEP ONE: NOTICE TO THE COURT



The first step is to give the court notice of the ex parte custody hearing. This part is very time sensitive.

You must give the duty judge notice that you would like an *ex parte* custody hearing by 10 a.m. on the day that of the hearing. You can give notice by calling the duty judge's office or by coming to the courthouse in person. When you talk to the duty judge's staff, they will tell you what time the hearing will be. Usually, *ex parte* custody hearings are scheduled for 2 p.m., but the duty judge may set a different time.

There is a different judge on duty every day. Check with court staff to find out which judge is on duty on the day of your hearing. The Family Court divisions and their telephone numbers are listed below:

- Division A, Judge Baker's office, (225) 389-4676
- Division B, Judge Woodruff-White's office, (225) 389-7657
- Division C, Judge Day's office, (225) 389-4673
- Division D, Judge Greene's office, (225) 389-4678

STEP TWO: THE PETITION



The next step is to fill out the “Petition to Modify Custody” form. Read everything carefully, double check the information you fill in, and make sure you fill out the forms clearly and completely.

These instructions will guide you through the petition paragraph by paragraph.

- The top part of this form is your case information.
 - If there is already a case open in family court between you and the other parent, you will have to file this petition in that case. Get all of the case information from the Clerk’s office when you file it. Leave this part blank for now if you are unsure, until you can confirm the information with the Clerk of Court’s office
 - If there is no previous case in family court with the other parent, fill in your name in the first blank on the left because you are the petitioner if you file the petition. The other parent is the defendant, so write his/her name underneath. When you file this form in the Clerk of Court’s office, they will give you the docket number and the division. For now, leave the blanks on the right empty

The beginning paragraph asks you to fill in your name and domicile. Your domicile is the parish/county and the state where your current permanent address is. Paragraph 1 asks you to fill in the other parent’s name and domicile.

- Paragraph 2 asks you to fill in the names and dates of birth of all of your minor children that you have with the other parent.
- Paragraph 3 asks you information about the custody judgment in place right now. To fill this part out, it is a good idea to have a copy of that custody judgment with you. If you do not have a copy, you can get one from the Clerk of Court’s office in the parish where the judgment was done.
 - Write the date of the order in the first blank space, then the case title in the next two blank spaces. This is usually listed at the top of your order, and looks something like “John Doe v. Jane Roe.”
 - In the next blank space, write the docket number of the custody order. Finally, write in the name of the court that gave the order and the city where the court gave the order.
- Paragraph 4 asks you to write in the details of the current custody order, including how both parents split the custody of the child(ren).
- Paragraph 5 asks you to explain why you are asking for temporary *ex parte* custody of your child(ren). Be very specific about the allegations you are making against the other parent. Remember that the law only allows *ex parte* custody orders in cases of true emergencies.
- Paragraph 6 asks you to give the court all of your reasons for changing the custody order. Remember, the court can only change custody if there has been a material change in circumstance since the last order. Make sure you explain these changes fully.
- Paragraph 7 asks you to select the custody arrangement that you are requesting be put into place after the temporary period of *ex parte* custody. You have to select one of the following options.

STEP TWO *CONTINUED*

- The first option is if you are requesting joint custody of the child(ren), with one parent getting more time and the other parent getting other time with the child(ren). If this is what you are requesting, check this option and write the name of the parent you want to have domiciliary status in the first blank. (Usually, the domiciliary parent is the parent that the child primarily resides with and the parent that gets to make important decisions for the child.) Write the other parent's name in the second blank, so that he/she can have custodial time with the child. Then in the lines that follow, explain the time periods you would like for that parent to have those custodial periods.
- The second option is if you are requesting joint custody of the child(ren) with both parents sharing equal time with the child(ren). If this is what you are requesting, check this option and write the name of the parent you want to have domiciliary status in the first blank. Then, write the other parent's name in the second blank, and in the lines that follow, explain the time periods that you consider equal time for both parents.
- The third option is if you are requesting sole custody of the child(ren). If this is what you are requesting, check this option and then select one of the three options underneath. The first option here is if you want the other side to be allowed some visitation with the child(ren). The second option here is if you want the other side to have visitation with the child(ren), but under supervision. The third option here is if you do not want the other side to have any visitation with child(ren) at all.
- Finally, sign and provide your name, address, and telephone number on the third page, under where it says "Respectfully submitted."

STEP THREE: THE OTHER FORMS



The next step is about the other documents in the form packet that are required for ex parte custody hearings. Remember that you must have everything done correctly to get an ex parte custody orders.

Beside the petition, there are four other documents in your form packet: the “Verification”, “Form E”, “Form F”, and the “Order”. Two of these pages require you to go to a notary. Free notary services are available at the Self-Help Resource Center. You must have a picture ID to get the forms notarized.

The next page in your packet is the “Verification” form. This form requires a notary. This document states that you are swearing that everything that was in your petition is true.

- Fill out the top part with your case information just like your petition.
- Write in the parish that you get the form notarized in the first blank. Write your name in the center blank. Finally, sign in the blank to the right while you are with the notary.
- The notary will fill in the bottom part of the form.

You will also have to fill out the document called “Form E”. This form requires a notary. This document is your sworn statement about why you feel your child or children will be in immediate and irreparable injury unless you get custody.

- Fill out the top part with your case information just like your petition.
- Write in the parish that you get the form notarized in the first blank. Write your name in the center blank.
- In the blank lines, state all of the reasons why you feel the child(ren) are in danger and why you need to have emergency custody of the child(ren). Describe the situation in detail, and if you need, attach more pages if you run out of room to write.
- The notary will fill in the bottom part of the form.

You will also have to fill out the document called “Form F”. This document is about the notice of the hearing that you gave to the other parent. Usually, you will also have to give notice of the hearing to the other party by noon of the day of the hearing. You can give notice by calling, texting, or emailing the other parent. You must let the other side know to be at the courthouse at the time of the hearing. However, if you feel like there is a good reason why you should not give notice of the hearing to the other side, let the duty judge’s staff know. An example of a good reason is if you think the other parent will take the child out of state if he or she finds out about the hearing. The duty judge might allow you to have a hearing without notice

- Fill out the top part with your case information just like your petition.
- Write your name in the first blank.
- There are two sets of blank lines on this document, but you should only fill out one set.
 - If you gave the other parent notice of the hearing, you will fill out the first set of blank lines. Write what you did to give notice, such as calling, texting, or emailing the other parent.

STEP THREE *CONTINUED*

- If you did not give notice, you will fill out the second set of blank lines. Write the reasons why you feel you should not have to give the other parent notice of the hearing. Please be aware that the duty judge may require you to give the other parent notice of the hearing even if you fill this part out.
- Finally, sign and provide your name, address, and telephone number at the bottom of the page.

The last document is the “Order”. This is the part that the court will fill out after the *ex parte* custody hearing. If the court grants your order, it will last for 30 days. You only have to fill in the top part of the first page, and the second page.

- Fill out the top part with your case information just like your petition.
- On the next page, write the name, address, and telephone number for the other parent. The judge will set a new date for you to come back to court on this issue for a longer hearing. By filling in this part information, the Sheriff’s office will make service on the other parent for the new court date. NOTE: If your spouse lives outside of Louisiana, you will have to get “long arm” service. Please visit the Self-Help Resource Center for more information on how to do this.

STEP FOUR: FILING



Once you have filled out your paperwork, you have to file all the documents with the Clerk of Court's office. This part is also time sensitive.

You must file your paperwork and get it to the duty judge's office by 12:00 noon. To file, you must go to Clerk of Court's Suit Accounting office, located on the Third Floor of the Nineteenth Judicial District Courthouse, 300 North Boulevard, Baton Rouge, Louisiana. If you want to make other arrangements for filing, you should contact that office at (225) 389-3982.

You must file the original forms that you filled out. It's also a good idea to make 2 copies of your filled out forms and bring them with you. When you file the originals, ask the Clerk of Court's office to stamp your copies for your records.

- If you have come to court before with your spouse, let the Clerk of Court's office know so they can look up your information and put the right case number on your paperwork.
- If this is the first time coming to court with your spouse, the Clerk of Court's office will assign a case number to you and write it at the top of your filed pleadings. They will also assign you to one of court divisions (A, B, C, or D). Make sure you keep this information it because you will need it to check the status of your case.

Anytime you file something with the Clerk of Court's office, you will have to pay a filing fee, unless you have been granted pauper status. There are different fees for different documents. The Clerk of Court's office can tell you how much the fees are.

If you cannot afford to pre-pay the costs, you may request to file as a pauper by checking the second box. You also have to fill out and file a separate "*In Forma Pauperis*" form, which you can get from the Self-Help Resource Center or the Clerk of Court's office. *IMPORTANT- Pauper status does not make filing free, but only lets you go without paying in advance. You may have to pay court costs after the case is over.

STEP FOUR: COURT HEARING



If you have followed the law and the local rules of court, the duty judge will schedule your ex parte custody hearing on the afternoon you requested.

Be sure to bring any evidence or witnesses that will help you prove your case. Remember, it is your responsibility to show the court why you should get emergency *ex parte* custody of the child(ren). You have to prove this in court using any evidence that you have that is relevant.

Make sure you are present in the courtroom at the time that you were given by the court. Get to court early to allow time for traffic, parking, walking to the courthouse, and getting through security.

Go to the courtroom and wait quietly until your case is called. When your case is called, stand up and go forward. The judge will ask you questions about information that the court needs. Let the court know if about any evidence or witnesses you have with you. *Ex parte* custody hearings are generally short, so you may not get to call every witness or introduce all of your evidence at this hearing.

If the court grants you *ex parte* custody, the order will only last for 30 days. You have to come back to court to review custody and have a longer hearing. The next court date that you will be assigned will likely be on a “Rule Day.” On Rule Days, the court generally allows 30 minutes per case, with 15 minutes given to each side. If you cannot prove your case in that time, the court *may* schedule another trial date where you will have more time.