

MOTION FOR EX-PARTE “EMERGENCY” TEMPORARY CUSTODY ORDER

Before you take the time to fill out this packet, you need to read this document carefully.

Is This Truly an Emergency?

This motion is a supplement to the *Motion for Custody* packet. **It is not a stand-alone document.** It is in addition to the *Motion for Custody* packet that you are filing.

When you file a regular *Motion for Custody*, you are seeking to take custody away from the person who has custody now (called the custodian). In order to do that, the documents that you are filing are served on the custodian. In other words, they will be given notice that you are filing this before the Court takes any action. In the legal world, that is called “due process.”

Once the custodian is served, you and the custodian will come to Court to discuss it. You need to understand that it is not a quick process. It’s not an easy process either, especially when the custodian is not in agreement with you getting custody. It will require you to come to Court, probably several times, and if an agreement is not reached before the trial date, then a full hearing will be held for the Court to decide whether you have presented sufficient evidence to prove that a change in custody is warranted and in the child’s best interest.

That’s the usual way custody changes are done.

However, in those rare instances in which an emergency is present, you can sometimes ask the Court to entertain a *Motion for Ex Parte Temporary Custody*. Ex-Parte is Latin for “one sided.” In other words, you are asking the Court to grant you custody of a child without the benefit of the person who has custody (the custodian) to come into Court to argue their side of it. You are asking the Court to act solely on your word that an emergency exists. As you can imagine, that is an extraordinary request and it can only be utilized if a true emergency actually exists.

What constitutes an emergency? Generally, an “emergency” means there is an imminent or immediate risk of injury or damage to the health, safety, or welfare of the child who is the subject of the pleading. In accordance with Trumbull County Family Court Local Rule 33.02(C):

“The Court will issue ex parte orders affecting children only where it is shown that irreparable harm will occur to the child unless immediate action is taken. Ex parte orders concerning parenting shall not generally be issued absent emergency situations where third party independent corroboration of the danger is provided by credible evidence from sources including, but not limited to, the police or a children services agency.”

If it is truly an emergency, then you want to take the time to fill out the *Motion for Ex Parte Temporary Custody* packet. There are several fill-in-the-blank forms which must be completed before your request will be considered by the Court. Again, these forms are a supplement to you filling a *Motion for Custody* packet. The forms are mandatory and must be completed **in full**. These forms are being provided for you as a convenience. If the forms are not filled out legibly and completely, the Court may dismiss your motion.

You need to remember that custody of children is a very serious undertaking and you are encouraged to consult with an attorney before proceeding. The forms should be typewritten or printed.

You also need to be advised of the following:

The Clerk of Courts cannot give you legal advice.

The Clerk of Courts cannot fill the forms out for you.

The Clerk of Courts cannot advise you as to how the forms are to be completed.

If you are in need of legal advice, consult an attorney.

Here are the forms you must include for the Court to consider your *Motion for Ex Parte Temporary Custody*:

1. **Motion for Ex Parte Temporary Custody**

This is the basic document which asks the Court to give you emergency temporary custody of the child involved. This form must be filled out completely and signed by you. The child's name must be inserted at the top left of the first page. DO NOT fill in the Case Number. This will be supplied by the Clerk of Courts. Be sure to explain in detail why you are requesting an Ex Parte Order and how it is in the child's best interest.

2. **Temporary Custody Affidavit**

The temporary custody affidavit must be completed in full and signed by you. The affidavit must be notarized before turning the packet in for filing.

3. **Ex Parte Custody Court Inquiry Form**

The Ex Parte Custody Court Inquiry Form must be completed in full. Absent exigent circumstances, as determined in the discretion of the court, the court will not consider the Ex Parte motion until the Ex Parte Custody Court Inquiry Form has been received by the court.

4. **Certification of Notice of Ex Parte Motion Form**

The party seeking the ex parte order or his/her attorney, if applicable, must certify to the court in writing the efforts which have been made to give notice to the opposing party of the filing of the motion or the reasons supporting his/her claim that notice should not be required.

- A sibling or parent of the child(ren) has been subject to or threatened with mistreatment or abuse:

- The child(ren)'s best interest and welfare require that Petitioner(s) be awarded temporary custody for the following reasons:

WHEREFORE, Petitioner(s) request an award of an Ex Parte Temporary Custody Order to him/her/them and for other relief as may be necessary.

THE FOLLOWING FORMS ARE ATTACHED: (check all that apply)

- Temporary Custody Affidavit
- Ex Parte Custody Court Inquiry Form
- Certification of Notice of Ex Parte Motion Form
- Affidavit from Trumbull County Children Services (optional)
- Safety Plan – TCCS (optional)
- Police Report (optional)
- Request for Service
- Other: _____ (optional)

Respectfully submitted,

Signature

Printed name

Address

City, State, Zip

Phone / Email

TEMPORARY CUSTODY AFFIDAVIT

STATE OF OHIO)
) **ss.**
COUNTY OF TRUMBULL)

Now comes _____, and after being duly cautioned and sworn, states the following:

1. The information contained herein pertains to the following minor child(ren):

- a. _____ DOB: _____
- b. _____ DOB: _____
- c. _____ DOB: _____

2. Petitioner(s) relationship to subject minor child(ren) is:
_____.

3. Subject minor child(ren) currently resides with:
_____ at
_____.

4. The child(ren) has/have resided there since _____.

5. The former residence of subject child(ren) was with:
_____ at
_____.

6. For the past year the child(ren) has/have resided as follows:

<u>With</u>	<u>Address</u>	<u>From</u>	<u>To</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

7. Child(ren)'s current school district: _____.

8. Grade level of child(ren):
- a. _____
 - b. _____
 - c. _____

9. There are no prior or pending court or administrative cases which concern this child(ren), or, if there are, the details are as follows:

<u>Court Type</u>	<u>County</u>	<u>Approx. Dates</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

10. Any persons that have a legal obligation to pay child support or legal right to exercise custody or visitation are as follows:

<u>Name</u>	<u>Relationship</u>	<u>Custody/Support/Visitation</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

11. That he/she HAS / HAS NOT (circle one) been convicted of or pled guilty to a charge involving neglect, abuse, abandonment, or violence towards a child or an adult. If so, the details are as follows:

12. The facts alleged in the attached Ex-Parte Custody Motion are true to the best of Petitioner's knowledge.

_____, being first duly sworn, says that the information contained herein is true to the best of his / her knowledge.

Petitioner

Sworn to before me and subscribed in my presence this ____ day of _____, _____.

Notary Public / Deputy Clerk