PRE-DECREE TEMPORARY ORDERS WITHOUT NOTICE

FOR LEGAL DECISION-MAKING AND PHYSICAL CUSTODY

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1

TO GET PRE-DECREE TEMPORARY ORDERS WITHOUT ADVANCE NOTICE TO THE OTHER PARTY

Part 1: Completing and Filing the Court Papers

Forms and Instructions

120921

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Pre-decree temporary orders without notice

Checklist

You may use these forms if . . .

- ✓ You or the other party have <u>already filed,</u> or at the same time you file these papers <u>you will be</u> filing, a petition for:
  - divorce, legal separation, or annulment, or
  - to establish legal decision-making and physical custody (or legal decision-making and custody combined with paternity), or parenting time, and/or child support,

  AND

- ✓ Someone is about to cause serious, immediate bodily harm to another person, or the health, safety, and welfare of a person is otherwise in serious and immediate jeopardy, AND

- ✓ You can give very specific facts about:
  - what the emergency is,
  - why the judge should hear your case before everyone else who has been waiting to see a judge,
  - why the situation is so serious that the Court should take someone's minor child(ren) away without providing:
    - ♦ advance notice explaining why, or
    - ♦ opportunity for the person to defend his or her rights to the minor child(ren), and

- ✓ You are prepared to post a bond to pay for any costs of this court action including costs incurred by the other party if it turns out that what you said is not true or not necessary for the <u>immediate</u> health or safety of the minor children involved, AND

Note:

- Your paperwork will be reviewed by a judicial officer but you may not be seen in person, so be sure to <u>include all important information in the Motion</u>.
- If your Motion for Temporary Orders without Notice is turned down at one Superior Court location, you may <u>not</u> use these forms to re-file your request at another location.

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Warning: Requests for Pre-Decree Temporary Orders without Notice are rarely granted and even when they are, they expire after a short period of time.

- If your request for these emergency orders is denied or if your request is granted and these orders expire before your hearing for your divorce, legal decision-making (custody), or other matter listed above occurs, you will have no court order.
- Filing for pre-decree Temporary Orders with Notice before or immediately after your hearing on this request, will cause a hearing to be scheduled to request orders be issued to govern all parties until a final order is entered in your case.

Read me: Consulting a lawyer before filing documents with the court may help prevent unexpected results. A list of lawyers you may hire to advise you on handling your own case or to perform specific tasks, as well as a list of court-approved mediators can be found on the Law Library Resource Center website.

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Pre-decree temporary orders without notice for legal decision-making (child custody)

Completing and filing the court papers

Notice: You or the other party must have filed a petition for divorce, legal separation, annulment, legal decision-making (custody) (or paternity combined with legal decision-making (custody)) or parenting time, before the Court can consider a Petition for pre-decree Temporary Orders without Notice.

This packet contains court forms and instructions to file pre-decree temporary orders without notice for legal decision-making. Items in **bold** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

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The documents you have received are copyrighted by the Superior Court of Arizona in Maricopa County. You have permission to use them for any lawful purpose. These forms shall not be used to engage in the unauthorized practice of law. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. The documents are under continual revision and are current only for the day they were received. It is strongly recommended that you verify on a regular basis that you have the most current documents.

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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 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, Legal Decision-making (Custody) or Parenting Time.

- Check the box to say whether you are asking for anything <u>other than or in addition to</u> a Temporary Order without Notice for Legal Decision-making (Custody) or Parenting Time, and write in your request.

Match the numbered instruction below to the matching number on the form.

1. Print your name as the person asking for the Temporary 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 <u>explain</u>.

If you did <u>not</u> give or attempt to give notice of this motion, you <u>must</u> 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).

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Warning! Temporary Orders without Notice expire in a matter of a few days. If the Court has not issued "regular" temporary orders with notice before these orders without notice expire, these orders will be void and no court order will exist.

5. Motion for temporary orders. Check the box to indicate that you filed for Temporary Orders with Notice and write in the date you filed or will be filing those papers, OR:
   Check the (other) box to indicate that have not – and that you understand the disadvantages and dangers of not having filed for "regular" Temporary Orders with Notice before going to court for Temporary Orders without Notice.
6. Divorce or other petition. You cannot file this Motion for Temporary Orders without Notice unless you or the other party has already filed (or you are now filing along with this request) a petition for divorce, legal separation, annulment, or other petition that includes legal decision-making (custody) or parenting time. Check the box to show which petition was or will be filed, and write in the date the petition was or will be filed.
7. Information about other emergency cases involving the parties or the minor children. Check the boxes that apply and then write in the information requested.
8. 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.
9. 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 Child Protective Services, involving the parties or the child(ren). If so, explain the agency, date, type of case, and status of case right now.
10. 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 legal decision-making (custody) or parenting time, or 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.

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Step 2: Complete only the top portion of the Temporary 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. The name of the Petitioner should be the same as the Name of the Petitioner in the Petition for Dissolution, or Legal Separation, or Annulment, or Legal Decision-making (Custody) or Parenting time. The Temporary Order without Notice 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 is very rare.

A note about notice

The law requires advance notice of an action affecting one's rights concerning one's children unless there is a very good reason not to, such as 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 you have a very good reason that immediate and severe and/or permanent injury, loss, damage, or death will result if you give notice to the other party.

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.

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Procedures: Motion for temporary orders without notice

- You must not file a Motion for Temporary Order without Notice solely to get an earlier court hearing, or to harass the other party or the court, or to cause unnecessary delay of court proceedings.

- If the Judge finds that you filed this motion without a very good legal reason, the Judge may:

  - Find you in contempt of court;
  - Order payment of money to the court or to the other party for costs or damages resulting from the wrongful filing of this motion, or
  - Order other consequences.

- If you filed a Motion for Temporary Order without Notice at one Superior Court location, and a Judge or Commissioner denied your request, you may not file again at another court location. If you have questions, you should see a lawyer for help.

Do not copy or file this page

- Before you can file papers for temporary orders one of the parties (either one) must file papers for divorce, legal separation or annulment, or to establish legal decision making (custody) or legal decision making along with paternity, visitation, or support.

- Temporary Orders without notice expire in a matter of days. Have you already filed for temporary orders with notice?
  If not, consider that:
  - If a pre-decree temporary order without notice expires without a "regular" temporary order in place, there is no court order;
  - There is no additional fee for filing for temporary orders with notice if you have already paid a fee to file or respond to the petition (including filing for temporary orders without notice).

Steps to Request Temporary Orders without Notice

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 Superior Court filing counter.

Clerk of Superior Court
250 West Second St.
Yuma, Arizona 85364

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.

Notice: Emergency motions presented to Family Department Administration before 4:30 p.m. will be addressed by a Judicial Officer by 5:00 p.m. on the same day. Emergency motions presented to Family Department Administration after 4:30 p.m. will be addressed by a Judicial Officer by 12:00 p.m. on the following business day. Paperwork must be filed with the Clerk of Superior Court before proceeding to Family Department Administration.

Do not go on the next page

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 provide 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.



* Staple and group the documents according to the page numbers and document sections. Do not combine or staple all documents together. Each document should be stapled separately and kept in the correct page-number order.

* Please look for the line in the corner of each page. This line indicates where the documents should be separated and stapled.

* If you have any questions or need clarification, please contact the Law Library at 928-817-4165

Person Filing:_____

Address (if not protected):_____

City, State, Zip Code:_____

Telephone:_____

Email Address:_____

ATLAS Number:_____

Lawyer's Bar Number:_____

For Clerk's Use Only

Representing ☐ Self, without a Lawyer OR ☐ Attorney for ☐ Petitioner OR ☐ Respondent

SUPERIOR COURT OF ARIZONA
IN YUMA COUNTY

Case Number: _____

_____
Name of Petitioner/Parent A

MOTION FOR PRE-DECREE TEMPORARY ORDER WITHOUT NOTICE FOR LEGAL DECISION-MAKING AND PHYSICAL CUSTODY

_____
Name of Respondent/Parent B

☐ **Other:** _____

I MAKE THE FOLLOWING STATEMENTS TO THE COURT UNDER OATH OR AFFIRMATION:

1. MY NAME IS: _____
(Name of Person asking for Emergency Order)

2. REASONS WHY I NEED THIS ORDER. Explain in detail the emergency facts which now exist, what irreparable injury (serious or life-threatening injury or damage that cannot be prevented or undone) to you or the child(ren) that might occur without this Order: (Use additional paper if necessary):

_____

_____

_____

_____

☐ **Check here if continued on attached page(s).**

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

Name of Party A: _____

Name of Party B: _____

Name of Other Person: _____

Name of Other Person: _____

Name(s) of Children: _____

_____

4. <u>REQUIRED INFORMATION</u>: NOTICE OR REASONS WHY NOTICE NOT ATTEMPTED. Actual Notice regarding a request that affects another party's rights concerning his or her 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 <u>NOT</u> ATTEMPT TO GIVE NOTICE BECAUSE:**
If you checked this box you **<u>MUST</u>** 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).**

Case Number: _____

5. TEMPORARY ORDERS WITH NOTICE.

☐ **I filed** or **I will file** a **Motion for Pre-Decree Temporary Orders with Notice** in the Superior Court of Arizona in Yuma County on this date: _____ _____, and I have attached a copy to the Judicial Officer's copy and to the other party's copy of this Motion.

OR,

☐ I have **NOT** filed a **Motion for Temporary Orders with Notice and I understand that:**

- temporary orders **without** notice **expire in a matter of days, and**
- **if no temporary orders with notice have been issued by the Court before these orders expire, no court order will be in effect.**

Note: You **cannot** file this **Motion for Temporary Orders without Notice** unless you or the other party has already filed one of the following petitions:

6. DIVORCE, LEGAL SEPARATION, ANNULMENT, LEGAL DECISION-MAKING (CUSTODY) OR OTHER PETITION:

A. I or the other party filed in the Superior Court in Yuma County a (check one box)

☐ Petition for Divorce, or Legal Separation, or Annulment

☐ Petition for Paternity, and Legal Decision-making (Custody)

☐ Petition for Legal Decision-making (Custody)/Parenting Time/Child Support (where paternity and/or support already established)

B. Date Petition was filed:_____.

7. INFORMATION ABOUT OTHER EMERGENCY CASES INVOLVING THE SAME PARTIES OR CHILDREN: Check the boxes that apply and write in the information requested (next page).

☐ **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.)**

☐ **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.)

Case Number: _____

Names of Parties:

_____ _____

_____ _____

Date of Order, Judgment, Dismissal, etc.: _____

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:

_____

_____

_____

8. 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, etc.: _____

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): _____

_____

9. 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).**

10. 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 the boxes that apply:

☐ Awarding me Temporary Legal Decision Making and Physical Custody of the minor child(ren) until a full court hearing.

☐ Other (explain): _____

_____

_____

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:_____

For Clerk's Use Only

Representing ☐ Self, without a Lawyer OR ☐ Attorney for ☐ Petitioner OR ☐ Respondent

SUPERIOR COURT OF ARIZONA
IN YUMA COUNTY

Case Number: _____

_____
Name of Petitioner

PRE-DECREE
TEMPORARY ORDER WITHOUT NOTICE
FOR LEGAL DECISION-MAKING AND
PHYSICAL CUSTODY

_____
Name of Respondent

☐ **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.

THE COURT FINDS:

1. INFORMATION ABOUT PETITIONS:

☐ **A Petition for Dissolution of Marriage, Legal Separation, Paternity with Legal Decision-making** (Custody)**/Parenting Time,** or **Legal Decision-making** (Custody) **/Parenting Time** (where paternity already established) was filed on this date:
(Date) _____ **by** _____

☐ A **Motion for Temporary Orders <u>with</u> Notice** was filed on this date by this person:
(Date) _____ **by** _____

OR

☐ A **Motion for Temporary Orders <u>with</u> Notice has not been filed.**

☐ A **Motion for Temporary Orders <u>without</u> Notice** was filed on this date:
(Date) _____ **by** _____

The Court read the Motion, took testimony if relevant, considered all matters and issues a temporary order without notice.

2. EMERGENCY SITUATION. The court has found that an emergency exists and this order must be entered immediately to avoid irreparable harm because:

☐ Someone is about to cause serious bodily harm to another person immediately,

OR

☐ The health, safety, and welfare of a person is otherwise in serious and immediate jeopardy as follows (describe): _____

_____

_____

_____

3. BEST INTEREST OF THE MINOR CHILDREN. This order is 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: _____

THE COURT ORDERS:

1. ☐ TEMPORARY LEGAL DECISION-MAKING AND PHYSICAL CUSTODY WITHOUT NOTICE is awarded

To: _____ as follows: _____

_____

_____

_____

2. ☐ OTHER TEMPORARY ORDERS WITHOUT NOTICE: _____

_____

_____

_____

3. ☐ **THIS ORDER SHALL CONTINUE until:** (date) _____ unless extended by the court, or by agreement between the parties in writing and filed with this Court.

HEARING INFORMATION. A court hearing has been scheduled for _____ at _____.

4. ☐ **SERVICE AND NOTICE TO THE OTHER PARTY:**
The person who requested this Order shall personally serve or give actual notice to the other party by serving a copy of this Order.

5. ☐ **BOND** in the amount of **$** _____ shall be posted with the Clerk of Superior Court no later than this date: _____ and this time: _____ as security for the payment of costs and damages that may be incurred or suffered by any party as a result of this Order should it be determined the basis of this Order was false or without merit. Bond shall be posted by: (Name(s)) _____

_____

6. ☐ **TEMPORARY ORDERS WITH NOTICE**
The person who requested this Order shall personally file a **Motion for Pre-Decree Temporary Orders WITH Notice** on or before this date: _____ or as follows _____

_____

DONE IN OPEN COURT:

_____ _____
(Date) **JUDGE/COMMISSIONER**