

POST-DECREE TEMPORARY MODIFICATION ORDERS WITHOUT NOTICE

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**TO GET TEMPORARY MODIFICATION OF
LEGAL DECISION-MAKING OR PARENTING
TIME WITHOUT ADVANCE NOTICE TO THE
OTHER PARTY**

Part 1: Completing and Filing the Court Papers

Forms and Instructions

Post-decree motion for temporary modification orders without notice

Checklist

You may use these forms if . . .

You must complete and file papers for a “regular” modification with notice before the Court can consider a motion for a modification without Notice.

- ✓ You have already filed, or at the same time you file these papers you will also file a “regular” request for modification of legal decision-making (custody) and/or parenting time, 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 child(ren) away without providing:
 - ♦ advance notice explaining why, or
 - ♦ opportunity for the person to defend his or her rights to the child(ren), and

Note:

- Your paperwork will be reviewed by a judicial officer, but you may not be seen in person so be sure to include all important information in the Motion.
- If it turns out that what you said is not true or filed without good legal reason, the judge may find you in contempt of court, order payment to the court or to the other party for costs or damages resulting from the wrongful filing of this Motion, or impose other sanctions.

Warning. If your Motion for Temporary Modification Orders without Notice is turned down at one Superior Court location, you may not use these forms to re-file your request at another location.

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.

Post-decree temporary orders without notice for modification of legal decision-making or parenting time

Completing and filing the court papers

Notice: You may not ask for this temporary order without notice unless you also file a regular Petition for Modification with notice either before or at the same time as filing this Temporary Order without Notice.

This packet contains court forms and instructions to file post-decree temporary orders without notice for modification of legal decision making or parenting time. 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.

Law Library Resource Center

Instructions: How to fill out the forms for a post-decree temporary
modification order without notice

Write neatly. Use black ink.

Step 1: Complete the Motion for Temporary Modification Order without Notice.

- Fill in the information about you in the top left corner. Fill in the information in the case caption. This includes the name of the Petitioner/Party A, the Name of the Respondent/Party B, and the Case Number. The name of the Petitioner/Party A should be the same as the Name of the Petitioner/Party A in the Order you are trying to modify.
- Check the box to indicate whether you are asking for a temporary modification without notice concerning legal decision-making and/or parenting time (“visitation”). 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 form.

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 children that cannot be prevented or undone.

If you have questions about whether you should request a temporary modification order without notice, see a lawyer for help.

3. People involved. Write in the name of the legal parents, other people (such as legal guardians or others who claim custody or have possession of the children), the name(s) of the children and the 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 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 for Temporary Modification Orders without Notice unless you have filed, or will at the same time file a regular Petition for modification of the same orders you request in the temporary orders without notice. Place a mark in the box to show whether you will file the regular Petition to Modify before you file the Motion for Temporary Orders or at the same time.
6. Information about other emergency cases involving the parties or the 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 Department of Child Services (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 Motion 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 also date and sign the document.

Step 2: Complete only the top portion of the Temporary Modification Order without Notice: Fill in the information in the case caption. This includes the name of the Petitioner/Party A, the Name of the Respondent/Party B, and the Case Number. The name of Party A should be the same as the Name of the Petitioner/Party A in the Order you are trying to modify. The Temporary Modification 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.

Step 3: When you have completed both the Motion and Order, follow the instructions in the "Procedures" page (DRMCE11p).

A note about notice

The law requires advance notice of an action affecting one's rights concerning one's children unless you have 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 a change in court 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 Modification Order without Notice unless you have a very good reason that immediate and irreparable injury, loss, damage or death will result if you give notice to the other party.

Procedures: What to do after completing all forms
(To request post-decree temporary orders without notice for modification
of child custody and/or parenting time)

- Step 1: Complete the Motion for Temporary Order 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 four (4) sets of papers: One (1) set of originals and three (3) sets of the copies. Make additional copy if the Arizona Division of Child Support Services (DCSS) is involved in your case.
- Step 3: File the papers at the court. Take the original and three (3) sets of copies to the Clerk of Superior Court filing counter.

Clerk of Superior Court
250 West Second Street
Yuma, Arizona 85364

What the Clerk will do: The Clerk will file the original of the Motion for Temporary Order without Notice. The Clerk will give you back clerk-stamped copies of the documents to show the documents were filed.

- Step 4: 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 5: Serve the court papers. If the Judge issues the Temporary Modification Order without notice and/or schedules a hearing, you must provide the other party with a copy of the Motion and Order.
- Step 6: 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.

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/Party A

**MOTION FOR POST-DECREE
TEMPORARY ORDER WITHOUT
NOTICE FOR MODIFICATION OF**

Name of Respondent/Party B

- ☐ **LEGAL DECISION-MAKING
(LEGAL CUSTODY)**
- ☐ **PARENTING TIME**
- ☐ **Other:** _____

**I MAKE THE FOLLOWING STATEMENTS TO THE COURT UNDER OATH OR
BY 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. **REQUIRED INFORMATION: 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. Below, mark the box to show 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.

OR

☐ **I DID NOT ATTEMPT TO GIVE NOTICE BECAUSE:** If you marked this box you **MUST** explain what injury, loss or damage you or the child(ren) would suffer if you gave the other party advance notice of this Motion. (Use additional paper if necessary).

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

5. ☐ **I FILED a "regular" Petition for modification of legal decision-making (legal custody) and/or parenting time in the Superior Court of Arizona in Yuma County on this date:** _____.

I attached a copy of that petition to the Judge's copy and to the other party's copy of this Motion.

☐ **I WILL FILE a "regular" Petition for modification of legal decision-making (custody) and/or parenting time in the Superior Court of Arizona in Yuma County AT THE SAME TIME I file this TEMPORARY EMERGENCY Motion on this date. I will attach a copy of that petition to the Judge's copy of this Motion and to the other party's copy of this Motion.**

6. INFORMATION ABOUT OTHER EMERGENCY CASES INVOLVING THE SAME PARTIES OR CHILDREN: Mark 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.)

☐ **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, 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:

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, 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:

Case No. _____

Status of Case Now: _____

☐ Final Order Entered; Case is Over. Date Order/Judgment signed: _____

☐ Hearing Date Set On (date): _____
at (time): _____

Court Location/address: _____

☐ Other (explain in detail): _____

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

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 the Arizona Department of Child Safety, involving the parties or the child(ren). If so, explain the agency, date, type of case, and status of case.

9. **CRIMES OF EITHER PARTY:** Explain here if either party or people involved with this Petition have been charged with committing a **dangerous crime** including child molestation or domestic violence:

I MAKE THE FOLLOWING REQUESTS TO THE COURT:

1. **For a Temporary Modification Order without Notice** as follows: Check the boxes that apply:

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

☐ **Canceling parenting time (formerly “visitation”) for the other party until a full court hearing.**

☐ **Changing the parenting time schedule until a full court hearing, as follows:** _____

☐ **Other (explain):** _____

2. **For a court hearing** where the parties can testify about the facts related to this **Motion for a Temporary Modification Order without Notice** and the **Petition for Modification of Legal Decision-making (Legal Custody) and/or Parenting Time**, so that the Judge can decide whether to continue or modify the terms of any emergency (without notice) 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/Party A

POST-DECREE TEMPORARY ORDER
WITHOUT NOTICE FOR
MODIFICATION OF

☐ LEGAL DECISION-MAKING

☐ PARENTING TIME (formerly
"visitation")

☐ OTHER: _____

Name of Respondent/Party B

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 UNDERLYING PETITION.

A petition for modification of legal decision-making and/or parenting time was filed on this date:

_____ by _____

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

Case Number: _____

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

3. BEST INTEREST OF THE CHILDREN. This order is made in the best interest of the 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 MODIFICATION OF LEGAL DECISION-MAKING WITHOUT NOTICE IS: ☐ DENIED ☐ GRANTED AND LEGAL DECISION-MAKING IS TEMPORARILY MODIFIED AS FOLLOWS:

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

2. ☐ TEMPORARY MODIFICATION OF PARENTING TIME WITHOUT NOTICE IS ☐ DENIED ☐ GRANTED, AND PARENTING TIME IS TEMPORARILY MODIFIED AS FOLLOWS:

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

3. ☐ OTHER TEMPORARY ORDERS WITHOUT NOTICE:

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

4. ☐ SERVICE AND NOTICE TO THE OTHER PARTY:

The person who requested this Order shall provide the other party with a copy of the Motion and 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))_____

DONE IN OPEN COURT:

Date

Judge/Commissioner