

Superior Court of Washington, County of _____

In re custody of:

Children:

Petitioner/s (*person/s who started this case*):

Respondents (*parents and any guardian or custodian*):

No. _____

Motion for Immediate Restraining Order –
Non-parent Custody (Ex Parte)
(MTSC)

**Motion for Immediate Restraining Order –
Non-Parent Custody (Ex Parte)**

Use this form in non-parent custody cases only. For marriage/domestic partnership cases, use form FL Divorce 221. For parentage cases, use form FL Parentage 321.

To both parties:

Deadline! Your papers must be filed and served by the deadline in your county's Local Court Rules, or by the State Court Rules if there is no local rule. Court Rules and forms are online at www.courts.wa.gov.

If you want the court to consider your side, you **must**:

- File your original documents with the Superior Court Clerk; AND
- Give the Judge/Commissioner a copy of your papers (if required by your county's Local Court Rules); AND
- Have a copy of your papers served on all other parties or their lawyers; AND
- Go to the hearing.

The court may not allow you to testify at the motion hearing. Read your county's Local Court Rules, if any.

Bring proposed orders to the hearing.

To the person filing this motion:

You must ask the court to sign the *Immediate Restraining Order (Ex Parte) and Hearing Notice* (FL Non-Parent 422). This Order may be signed "ex parte" (without the other party there). Contact the Superior Court Clerk's office for the procedure in your county. You must have this *Motion* and the *Immediate Restraining Order* personally served (by someone else) on the restrained person/s.

To the person receiving this motion:

If you do not agree with the requests in this motion, file a statement (using form FL All Family 135, *Declaration*) explaining why the court should not approve those requests. You may file other written proof supporting your side, and propose your own *Residential Schedule* (FL Non-Parent 405) or *Child Support Worksheets*.

If the court grants an *Immediate Restraining Order* without notice to you, you can file a motion to change or terminate it before the hearing date. (Civil Rule 65(b).) There is no pattern form for that motion.

1. My name is: _____ . I am asking the court for an *Immediate Restraining Order* against (name/s): _____ .

I want these children under 18 to be protected by the order:

Child's name	Age	Child's name	Age
1.		2.	
3.		4.	
5.		6.	

2. I ask the court to approve an *Immediate Restraining Order* to protect me and/or the children involved in this case. Without this order, the children or I could be hurt or suffer damage or loss immediately. This harm could be irreparable. (*Explain how you or the children could be harmed beyond repair*):

(If you need additional space use the Declaration form FL All Family 135.)

3. Notice (check one):

I should **not** have to notify the other parties in advance that I am filing this *Motion* because the children or I could be harmed beyond repair if I gave any advance notice. (*Explain why the harm could happen before a hearing could be held with notice to the other parties.*) _____

- I **have** notified the other parties that I am asking for an *Immediate Restraining Order*.
(Describe anything done to give the other parties or their lawyers notice of this Motion):

4. Court hearing request

I ask the court to approve an *Immediate Restraining Order* now, and hold a hearing within 14 days to consider all of my requests for temporary orders listed below. I will have the other parties served with notice of the hearing so the court can hear their sides.

- Other: _____

5. Adequate Cause

- The court found there was adequate cause to allow this case to move forward on (date): _____.
- The court has not yet decided whether there is adequate cause to allow this case to move forward.
- An adequate cause hearing is scheduled for (date): _____.
- No adequate cause hearing has been scheduled.

6. Indian Children

(An **Indian child** is a child who is a member of an Indian tribe, or who is the biological child of an Indian tribe member and eligible for membership. You must try to find out if any child in this case is an Indian child. If so, the federal and state Indian Child Welfare Acts will apply to your case.)

- None of the children are Indian children. I ask the court to find that the federal and state Indian Child Welfare Acts do not apply to this case.
- The children are or may be Indian children.

Jurisdiction – The court has jurisdiction over the Indian children because they are:

- not** domiciled or living on an Indian reservation, and are not wards of a tribal court.
- domiciled or living on an Indian reservation, and (check all that apply):
- The children’s tribe agrees to Washington State’s concurrent jurisdiction.
- The children’s tribe decided not to use its exclusive jurisdiction (expressly declined). (RCW 13.38.060)
- Washington State should claim emergency jurisdiction for children temporarily located off the reservation to protect the children from immediate physical damage or harm. (RCW 13.38.140)

Notice to tribes – Petitioner (check one): provided or is providing did **not** provide the required *Indian Child Welfare Act Notice* (form FL Non-Parent 402) and a copy of the Petition to the children’s tribe/s, the parents and any Indian custodian.

7. Active duty military

(The **federal** Servicemembers Civil Relief Act covers:

- Army, Navy, Air Force, Marine Corps, and Coast Guard members on active duty;
- National Guard members under a call to active service for more than 30 days in a row; and
- commissioned corps of the Public Health Service and NOAA.

The **state** Service Members' Civil Relief Act covers Washington state residents who are National Guard or Reserve members under a call to active service for more than 30 days in a row, and their dependents.)

None of the other parties are covered by the state or federal Service Members Civil Relief Acts.

(Name): _____ is covered by the state federal Service Members Civil Relief Act.

For persons covered only by the **state** act – Military duty may keep the service member or dependent from responding or coming to the hearing on this motion. I ask the court to approve temporary orders even if the covered person asks for a stay or doesn't respond. It would be very unfair (a manifest injustice) not to make temporary orders now because: _____

➤ **I ask the Court to approve these orders immediately (check all that apply):**

8. Do not disturb

No request.

Order (name/s): _____ not to disturb my peace or the peace of any child listed in **1**.

9. Stay away

No request.

Order (name/s): _____:

Not knowingly to go or stay within _____ feet of my home, workplace, or school, or the daycare or school of any child listed in **1**.

To stay away from my home, workplace, or school, and the daycare or school of any child listed in **1**.

10. Do not hurt or threaten

No request.

Order (name/s): _____ not to:

- Assault, harass, stalk or molest me or any child listed in **1**; or
- Use, try to use, or threaten to use physical force against me or the children that would reasonably be expected to cause bodily injury.

Warning! If the court extends this order after a full hearing, the court must consider if weapons restrictions are required by state law; federal law may also prohibit the Restrained Person from possessing firearms or ammunition.

11. Surrender weapons

- No request.
- Order (name/s): _____ to surrender any firearms and other dangerous weapons that he/she possesses to (check one):
 - the police chief or sheriff. his/her lawyer. other person (name): _____.

12. Protect children

- No request.
- Order (name/s): _____ not to take the children listed in **1** out of Washington State.
- Order that the children listed in **1** will live with me until the hearing.
- Other (specify): _____

13. Other immediate orders

- No request.
- (Specify): _____

➤ ***I ask the court to approve these temporary orders at the hearing***
(check all that apply):

14. Extend immediate orders

Extend the immediate orders I asked for above to stay in effect until the case is done.

15. Prohibit weapons and order surrender

- No request.
- Order (name/s): _____:
 - Not to possess or obtain any firearms, other dangerous weapons, or concealed pistol license until the Order ends, and to
 - Surrender any firearms, other dangerous weapons, or concealed pistol license that he/she possesses or controls to (check one): the police chief or county sheriff.
 his/her lawyer. other person (name): _____.

16. Care of children

- No request.
- Give me custody of the children.
- Approve my proposed *Residential Schedule* (form FL Non-Parent 405).
- Order (name/s): _____ not to take the children out of Washington State.

- Appoint a person to investigate and report to the court about what is in the children's best interest, and order who will pay this person's fees. This person should be a/n (*check one*):
 - Guardian ad Litem (GAL) or Evaluator/Investigator as chosen by the court.
 - Guardian ad Litem (GAL).
 - Evaluator/Investigator.
 - (*Name*): _____
- Other: _____

17. Support, insurance and taxes

- No request.
- Order child support according to the Washington state child support schedule.
- Order (*name/s*): _____ to provide and keep health insurance for the children.
- Order (*name/s*): _____ to pay children's uninsured medical, day care, or other necessary expenses (*check one*):
 - as listed on the proposed *Child Support Order*.
 - as follows (*specify*): _____

- Order that (*name/s*): _____ may claim the children as dependents on tax forms.
- Other: _____

18. Fees and costs

- No request.
- Order (*name*): _____ to:
 - Pay my lawyer's fees for this case. *Amount*: \$ _____
 Make payments to (*name*): _____
 - Pay other professional fees and costs for this case. *Amount*: \$ _____
 to (*name*): _____
 for (*purpose*): _____

19. Other temporary orders

- No request.
- (*Specify*): _____
