

Temporary Emergency Custody Order

Mendocino County

Law—California Family Code, section 3064: Must show immediate harm to the child or immediate risk that the child will be removed from California. See the back for the complete text of the law and for the Self-Help Center information.

For the Person Asking for the Temporary Order

- 1. Reserve a court date for the judge to review your request.** Contact Clerk's Office and ask for an "Ex Parte Date" for an emergency custody order:
 - In person: Ukiah: Room 107
Fort Bragg: Clerk's window
 - Phone: Ukiah: 707-468-2003
Fort Bragg: 707-961-3192

Write down the date on form [MMC-120](#)
- 2. Fill out your forms and make 1 copy.**
 - [FL-300 Request for Order](#)
 - [MC-031 Attached Declaration](#) to explain why it is an emergency (attach to FL-300 and see the back for what needs to be included)
 - [FL-305 Temporary Emergency \(Ex Parte\)](#)
 - Fee is \$85. If you cannot afford it, you can ask for a fee waiver: [FW-001](#) and [FW-003](#).
- 3. Tell the other side by 10 am the court day before the court date you reserved.** Give the other side a copy of your FL-300 and attachments, FL305, and the MMC-120 form that shows the date the court will decide your request. You can do this by email, in person, or by text. You can do it yourself unless there is a restraining order against you.
- 4. Fill out form [FL-303 Declaration Re. Notice](#),** explaining how and when you gave papers to the other side.
- 5. Turn in FL-300 & attachments, FL-305, FL-303, copies, by 10 am** on the day the judge will review your request.
- 6. Find out the judge's decision after 1:30 p.m. the day the judge will review your request.**
 - The judge will decide your request based only on the papers both sides turn in.
 - The judge will grant or deny the request for a temporary emergency order. You will also get a court hearing, likely 3-4 weeks late
 - **Be prepared to come to court that same afternoon.** The judge may want more information. If so, the clerk will email you or call you to let you know you must come to the courthouse at 4 pm. if your case is in Ukiah, or 1:15 p.m. if Ten Mile (Fort Bragg).

- 7. Have your papers served before the deadline.** Have someone 18 or older, NOT you, deliver papers in person to the other side at least 16 court days before the hearing or sooner, if marked on #4 of page 1 of FL-300. The papers the person has to deliver are: FL-300, FL-305, and a blank [FL-320 Responsive Declaration](#) for the other parent to use.
- 8. Turn in the Proof of Service at the court:** The person who delivered the papers fills out, and you file, the [FL 330, Proof of Personal Service](#).
- 9. Go to your court hearing.** You will likely go to mediation. If you don't come to an agreement in mediation, the judge will schedule a hearing.

For the Person Responding

If the other parent has asked for ex parte/emergency orders, you can oppose the request by responding to the court, in writing, **no later than 10 a.m. the day the judge will consider the ex parte request** (date on form [MMC-120](#)).

- 1. File your response at the clerk's filing window by 10 a.m.** Use form [MC-030](#) or a sheet of paper to explain your side. Write your name, the other side's name, & the case number if you have one.
- 2. Read #6 on the left side.** It applies to you too.
- 3. After the judge's decision, the other side will have to serve you, in person, papers by a deadline.**
- 4. Fill out form [FL-320 Responsive Declaration](#)** (the other side should have given you a blank one). Make 1 copy. Turn in the original and the copy at the clerk's office. The clerk will return the forms to you stamped.
- 5. At least 9 court days before the hearing,** have someone serve a copy in person of your FL-320 on the other side. Or have someone mail it but add 5 regular days to the deadline. This person then fills out, and you file:
 - [FL-330 Proof of Personal Service](#) or
 - [FL-335 Proof of Service by Mail](#)
- 6. Go to court.** See # 9 above.

It is very hard to get a temporary emergency court order. Please read the law carefully to make sure your situation fits the law.

Legal standard: California Family Code, section 3064:

- (a) The court shall refrain from making an order granting or modifying a custody order on an *ex parte* basis unless there has been a showing of immediate harm to the child or immediate risk that the child will be removed from the State of California.
- (b) “Immediate harm to the child” includes, but is not limited to, the following:
- (1) Having a parent who has committed acts of domestic violence, where the court determines that the acts of domestic violence are of recent origin or are a part of a demonstrated and continuing pattern of acts of domestic violence.
 - (2) Sexual abuse of the child, where the court determines that the acts of sexual abuse are of recent origin or are a part of a demonstrated and continuing pattern of acts of sexual abuse.

To learn about the local rules that explain the process for asking for an *ex parte* order, and for responding to one, read Rule 1.10 and Rule 4.7 of the [Mendocino County Local Rules of Court](#).

If you’re making an *ex parte* request, your declaration (statement) or that of any witness you’re wanting to include **MUST**:

- Be based upon your personal knowledge (for your declaration) or your witness’ personal knowledge, if you’re attaching a declaration from a witness. The judge may decide not to consider a declaration based on hearsay (if there is no valid exception to hearsay rules).
- Specifically describe the dates of incidents, provide a detailed factual description of what happened, and name the specific harm threatened or actually caused. This means you need more than just conclusions, feelings, wishes, or fears.
- Fully disclose relevant facts.
- **Disclose whether the request you’re making will change what is happening related to custody and visitation at the moment.**