

****There are no forms for filing an ex parte motion. You will need to prepare your own motion and order.****

FILING AN EX PARTE MOTION

An ex parte order may be entered by the Court without a hearing pursuant to MCR 3.207. In order to obtain an ex parte order, you must prepare and file a **MOTION**. You must also prepare and submit a **PROPOSED ORDER** along with your motion, which may be signed by the judge.

Motion (\$20.00 Filing Fee) (An additional \$80.00 judgment fee will be required if case is closed at the time of filing your motion)

The **MOTION** must include the following:

1. Case Caption (which includes court information, case number, parties' names and addresses, case number, and title. For example: Verified Ex Parte Motion Regarding Custody/Parenting Time...)
2. Body (state what has happened/reasons why you're asking for an ex parte order and what you would like the court to do).
 - a. **An ex parte motion providing a change for custody or parenting time must include information and facts establishing whether the child has an established custodial environment.**
 - b. **Either that the requested order will not change the established custodial environment or that clear and convincing evidence exists that the change in the child's established custodial environment that is proposed is in the child's best interest.**

Established custodial environment is an environment that exists with a parent or custodian if, over time, the child naturally looks to that person for comfort, guidance, discipline, and basic needs. It is used to determine the stability of a child's home life and the appropriate burden of proof for changing custody.
 - c. **If the request is from a third party, it must be shown from clear and convincing evidence that it is not in the child's best interest for the parent(s) to have custody.**
3. Mandatory language pursuant to MCR 3.207(B)(1) (see page #2). You must state in your motion specific facts establishing how or why **"irreparable injury, loss, or damage will result from the delay required to effect notice, or that notice itself will precipitate adverse action before an order can be issued."**
4. Verified Signature: To verify your motion, include the following language immediately preceding your signature. **"I declare that the statements above are true to the best of my information, knowledge, and belief."** Pursuant to MCR 2.114(B)(2)(b).
5. Date and sign.

The proposed Order Case Caption (which includes court information, case number, parties' names and addresses, case number, and title. For example: Ex Parte Order Regarding Custody/Parenting Time...)

1. Body (list what you want the judge to order. For example: 1. Defendant's parenting time shall be suspended until further order of the court, etc.)
2. An ex parte order providing for **child support, custody, or visitation** must include the Mandatory "Notice" language pursuant to MCR 3.207(B)(6)
4. In all other cases (**not** requesting a change in **child support, custody, or visitation**), the proposed order must include the mandatory notice language pursuant to MCR 3.207(B)(5) (see page #3).
5. Place for Judge to date and sign

***** You will need an original and four copies of each document*****

Rule 3.207 Ex Parte, Temporary, and Protective Orders

(A) Scope of Relief. The court may issue ex parte and temporary orders with regard to any matter within its jurisdiction and may issue protective orders against domestic violence as provided in subchapter 3.700.

(B) Ex Parte Orders.

(1) Pending the entry of a temporary order, the court may enter an ex parte order if the court is satisfied by specific facts set forth in an *affidavit* or *verified* pleading that **irreparable injury, loss, or damage will result from the delay required to effect notice, or that notice itself will precipitate adverse action before an order can be issued.**

(2) The moving party must arrange for the service of a true copy of the ex parte order on the friend of the court and the other party **within 3 days of the order being issued.** An ex parte order is effective upon entry and enforceable upon service.

(3) An ex parte order remains in effect until modified or superseded by a temporary or final order.

(4) An ex parte order providing child support, custody, or visitation pursuant to MCL 722.27a, must include the following notice:

Notice:

"1. You may file a written objection to this order or a motion to modify or rescind this order. You must file the written objection or motion with the clerk of the court within 14 days after you were served with this order. You must serve a true copy of the objection or motion on the friend of the court and the party who obtained the order.

"2. If you file a written objection, the friend of the court must notify the court to cancel any evidentiary hearing date specified in the ex parte order and try to resolve the dispute. If the friend of the court cannot resolve the dispute, the friend of the court must provide you with form pleadings and written instructions if you wish to bring this matter before the court without assistance of counsel and must reschedule the cancelled evidentiary hearing or schedule a hearing with the court.

"3. The ex parte order will automatically become a temporary order if you do not file a written objection or motion to modify or rescind the ex parte order. If an evidentiary hearing date is specified in the ex parte order and you do not file a written objection or motion, a hearing will take place on the specified date. If an evidentiary hearing date is specified in the ex parte order and you file a motion, a hearing will take place on the specified date. Even if an objection or motion is filed, the ex parte order will remain in effect and must be obeyed unless changed by a later court order." In all other cases, the ex parte order must state that it will automatically become a temporary order if the other party does not file a written objection or motion to modify or rescind the ex parte order and a request for a hearing. The written objection or motion and the request for a hearing must be filed with the clerk of the court, and a true copy provided to the friend of the court and the other party, within 14 days after the order is served.

(5) In all other cases (**not** requesting a change in **child support, custody, or visitation**), the ex parte order must state the following notice:

Notice:

This order will automatically become a temporary order if the other party does not file a written objection or motion to modify or rescind the ex parte order and a request for a hearing. The written objection or motion and the request for a hearing must be filed with the clerk of the court, and a true copy provided to the friend of the court and the other party, within 14 days after the order is served.

- (a) If there is a timely objection or motion and a request for a hearing, the hearing must be held within 21 days after the objection or motion and request are filed.
- (b) A change that occurs after the hearing may be made retroactive to the date the ex parte order was entered.

(6) The provisions of MCR 3.310 apply to temporary restraining orders in domestic relations cases.

(C) Temporary Orders.

- (1) A request for a temporary order may be made at any time during the pendency of the case by filing a verified motion that sets forth facts sufficient to support the requested relief.
- (2) A temporary order may not be issued without hearing, unless the parties agree otherwise or fail to file a written objection or motion as provided in subrules (B)(5) and (6).
- (3) A temporary order may be modified at any time during the pendency of the case, following a hearing and upon a showing of good cause.
- (4) A temporary order must state its effective date and whether its provisions may be modified retroactively by a subsequent order.
- (5) A temporary order remains in effect until modified or until the entry of the final judgment or order.
- (6) A temporary order not yet satisfied is vacated by the entry of the final judgment or order, unless specifically continued or preserved. This does not apply to support arrearages that have been assigned to the state, which are preserved unless specifically waived or reduced by the final judgment or order.