

**In the Common Pleas Court of Montgomery County, Ohio
Juvenile Division**

Ex Parte/ Emergency Motions- General Information

(PLEASE READ AND INITIAL BEFORE FILING YOUR MOTION)

WHAT DOES “EX PARTE” MEAN? - “Ex Parte” refers to motions, hearings, or orders granted on the request of, and for the benefit of, one party only. This is an exception to the basic rule of court procedure that both parties must be present at any argument before a Judge or Magistrate, and to the otherwise strict rule that an attorney may not contact a Judge or Magistrate without previously notifying the opposition. Ex parte matters are usually temporary orders (like a restraining order or temporary custody) pending a formal hearing or an emergency request for a continuance.

WHEN WILL AN “EX PARTE” MOTION BE GRANTED? – Motions requesting ex parte orders that affect children are discouraged. The court will issue such orders **only** where it is shown that **irreparable harm will occur** to the child unless immediate action is taken, **and** the moving party has also filed and scheduled for hearing a complaint or motion for custody, the reallocation of parental rights and responsibilities, or other relief as appropriate to the circumstances.

“IRREPARABLE HARM” – “Irreparable harm” means that harm which cannot be undone.

“WILL OCCUR” – “Will occur” Does not mean may occur, does not mean you fear it will occur, and does not mean you believe it will occur. It means that “harm” **WILL OCCUR** and the harm is unable to be repaired. It has to be real harm to the child.

SUPPORTING AFFIDAVITS – Motions for Ex Parte/Emergency Orders must have supporting affidavits that **clearly detail the expected harm**. These are statements you make under oath, signed and affirmed by a notary public or deputy clerk of court so that you are subject to penalty of perjury for making false statements. Incomplete, inaccurate or misleading information provided to the Court may result in sanctions against the attorney or party providing such.

“CLEARLY DETAIL THE EXPECTED HARM” – This means your affidavit has to state clearly what it is that will happen to the child. **“EXPECTED HARM”** means not just feared harm, but what **WILL** happen if the court does not issue an ex parte/ emergency order.

PHYSICAL CUSTODY – if you are not in physical custody of and caring for the child at the time you file this Motion, you must state the name and address of who is in physical custody of and caring for the child at that time.

Ex Parte/ Emergency Motions- General Information continued
(PLEASE READ AND INITIAL BEFORE FILING YOUR MOTION)

SUPPORTING MATERIALS – You may attach to your Motion any materials, such as police reports and protection orders, that you wish to have considered provided they may objectively be deemed as relevant to your Motion.

IMMEDIATE NOTICE TO THE OPPOSING PARTY – You must serve the motion for an ex parte/emergency order using a Court approved private process server or the local Sheriff upon all opposing parties by personal service at your cost in accordance with this Court’s Local Rules and the Rules of Civil Procedure. An ex parte order for a change in the residential parents status must include a provision for immediate notice of the ex parte order to the legal custodian or the residential parent.

I have read and understand the above _____

**IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO
JUVENILE DIVISION**

IN RE:

JC# _____
JC# _____
JC# _____

Minor Child(ren)

Name _____
JUDGE _____
MAGISTRATE _____

Street Address _____
City, State, Zip Code _____
Petitioner

**MOTION FOR EX PARTE
EMERGENCY ORDER**

vs. / and

Name _____
Street Address _____
City, State, Zip Code _____
Respondent

vs. / and

Name _____
Street Address _____
City, State, Zip Code _____
Respondent

Instructions: One original filing is required per child. This form is used to request an ex parte/emergency order, through **such orders** that affect children **are discouraged** and will issue **only** where **irreparable harm will occur** to the child unless immediate action is taken. **It must** include your sworn affidavit. Incomplete, inaccurate or misleading information may result in sanctions against you. Please check local rules to determine what else may be required with this filing. You **must** serve this motion on all opposing parties by personal service at your cost in accordance with this Court's Local Rules and the Rules of Civil Procedure.

1. I, _____ (name), _____ (relationship to child(ren)) request this Court issue and ex parte/emergency order changing the allocation of parental rights and responsibilities (custody); regarding the minor child(ren):

Name of Child: _____ Date of Birth: ___/___/___

Name of Child: _____ Date of Birth: ___/___/___

Name of Child: _____ Date of Birth: ___/___/___

2. _____ (names(s)) is/are currently designated as the residential parent(s) and/or legal custodian(s) of the child(ren).

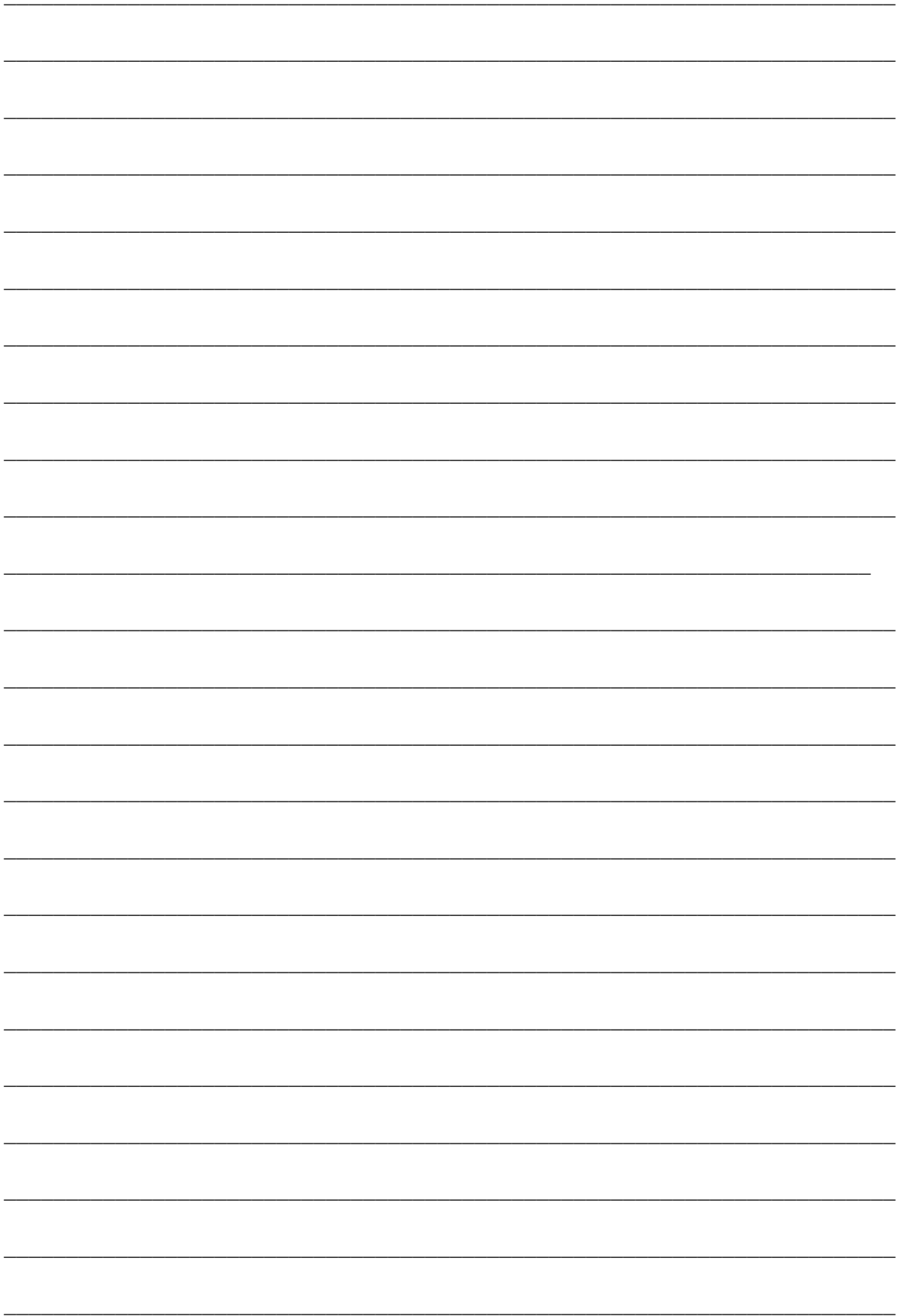
3. **At the time of filing of this Motion**, the child(ren) ___ is / are in my physical custody and came into my physical custody because

OR ___ is in the physical custody of [Name] _____

and living at [Address] _____

and came into their physical custody because _____

4. Unless immediate action is taken, **irreparable harm will occur** to the child. **The irreparable harm that will happen and that cannot be undone is:** _____





5. _____[Check if documents are attached] I have attached hereto, and incorporated herein relevant documents in support of this Motion.

6. I have also filed and scheduled for hearing a complaint or motion for custody, the reallocation of parental rights and responsibilities, or other relief as appropriate to the circumstances regarding the child.

7. I will serve this motion for an ex parte/emergency order upon all opposing parties by personal service at my cost in accordance with this Court’s Local Rules and the Rules of Civil Procedure.

8. I shall provide immediate notice of any ex parte/emergency order issued by the Court that changes the residential parents status to the current legal custodian or the residential parent.

OATH

(DO NOT SIGN UNTIL NOTARY/DEPUTY CLERK IS PRESENT)

I, _____ (print name) swear or affirm that I have read this document and, to the best of my knowledge and belief, the facts and information stated in this Motion are true, accurate and complete. I understand that if I do not tell the truth, I may be subject to penalties for perjury.

Your Signature

Sworn before me and signed in my presence this _____ day of _____, 20__.

Notary Public/ Deputy Clerk of Court

My Commission Expires:_____

CERTIFICATE OF SERVICE

_____ I hereby certify that I have arranged at my cost to have a copy of the foregoing, along with all necessary other documents, served by personal service on the following parties

by: _____ Court approved private process server [Name of Process Server] _____



By: _____ Sheriff of the County or Counties in which parties reside on _____ (file date).

[THE PARTY FILING THIS DOCUMENT IS RESPONSIBLE FOR SERVICE ALL PARTIES ON THE CASE AND PROVIDING PROOF OF SERVICE TO THE COURT PRIOR TO ANY HEARING ON THIS MOTION]

Name: _____

Address: _____

BY _____ COURT APPROVED PRIVATE PROCESS SERVER BY ____ SHERIFF

Name: _____

Address: _____

BY _____ COURT APPROVED PRIVATE PROCESS SERVER BY ____ SHERIFF

Name: _____

Address: _____

BY _____ COURT APPROVED PRIVATE PROCESS SERVER BY ____ SHERIFF

Your Signature: _____

[Ex Parte Motion Final 04-09-2014 revised 07-09-2014, 04-10-2017, 11/8/2019]