IRFLP 504 Motions for Temporary Orders – Mandatory Disclosure

Idaho Rules of Family Law Procedure Rule 504. Motions for Temporary Orders – Mandatory Disclosure.

A. Form of motion. A party seeking temporary orders pursuant to Idaho Code Sections 32-704 and 32-717 shall file a separate verified motion, or a motion and affidavit, with the court setting forth the legal and jurisdictional bases for the motion and the specific relief requested. The motion shall include the following information and documents where relevant:

1.Custody and parenting time. If a party seeks an order for temporary custody, parenting time or visitation, the motion shall set forth a proposed parenting plan specifically stating the custody, parenting time and visitation requested for all parties to the action. If not contained in a separate affidavit or pleading previously filed in the case, the motion shall set forth all facts that are required to be disclosed by Idaho Code Section 32-11-209. The motion shall further set forth the following additional information:

a.the name and date of birth of each child who is subject to the motion;

b.the nature and extent of any special needs of each child;

c.a description of the manner in which the parents are currently caring for the child/ren. If the parties live separately, then include a description of the manner in which they have cared for the child/ren, both before and after separation;

d.each parent’s current work schedule;

e.the nature and extent of any circumstances known to the moving party that would subject the child/ren to a risk of neglect or abuse in either parent’s custody including, but not limited to, substance abuse or dependence, and domestic violence.

2.Child support, spousal maintenance and attorney’s fees. If a party seeks a temporary child support order, the motion shall be accompanied by a completed Affidavit Verifying Income and Child Support Worksheet setting forth the amount requested in accordance with the Idaho Child Support Guidelines set forth in Rule 126.I [1]. All motions for temporary orders of child support, spousal maintenance, attorney’s fees, and the division of community income shall set forth the specific amount requested and shall provide the following information to the best of the moving party’s knowledge:

a.the name of each party’s employer;

b.the amount of each party’s monthly income, both gross and net supported by an accurate photocopy of the moving party’s most recent pay stub;

c.an itemization of the amount of each party's reasonable monthly living expenses; and

d.if reasonable monthly expenses exceed the parties' combined net income, the identity of each and every community asset, including a statement of its fair market value, which is available to sell or borrow against in order to meet the reasonable needs of the parties and their child/ren.

B. Response to motion. A party who wishes to file a response to a verified motion for temporary orders shall file an affidavit containing the same information that is required of the motion.

C. Limitations on Verified Motion and Affidavits. No party shall file a verified motion or affidavit under this rule that exceeds twenty pages, including attachments. Affidavits from non-parties filed in support of or in opposition to a motion for temporary orders shall be limited to four per party and shall be limited to the same number of pages set forth above.

D. Motions for temporary orders. Motions for temporary orders shall be heard and decided exclusively on the motion and affidavits unless, at the hearing on the motion for temporary orders, the court determines that the parties should be allowed to present evidence. In such case, the court shall schedule an evidentiary hearing within a reasonable time. Service of the motion, affidavits, and legal memoranda, if any, shall be governed by Rule 501.C.1 – 6 [2].

E. Temporary orders. A temporary order issued pursuant to Idaho Code Sections 32-704 or 32-717 is not a judgment. It need not comply with Rule 803 and cannot be certified as final pursuant to Rule 804.

(Adopted April 2, 2014, effective for early adopters July 1, 2014, effective statewide July 1, 2015, amended April 2, 2015, effective April 15, 2015; amended April 23, 2015, effective July 1, 2015.)

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Links:
[1] http://www.isc.idaho.gov/irflp126
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