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## **IRFLP 504 Motion for Temporary Orders**

### **Idaho Rules of Family Law Procedure Rule 504. Motion for Temporary Orders.**

(a) **Form of Motion.** A party seeking a temporary order will file a 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 will include the following information and documents where relevant:

(1) **Custody and Parenting Time.** If a party seeks an order for temporary legal or physical custody, including parenting time or visitation, the motion must set forth the proposed parenting schedule specifically stating the legal or physical 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 will set forth all facts that are required to be disclosed by Idaho Code § 32-11-209. The motion will 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. If the parties live separately, then include a description of the manner in which they have cared for the child, both before and after separation;

(D) each parent's current work schedule; and

(E) the nature and extent of any circumstances known to the moving party that would subject the child 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, Temporary Maintenance, Attorney Fees, and Sharing of Community Property** If a party seeks a temporary child support order, the moving party will file 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 120. All motions for temporary orders of child support, temporary maintenance, or attorney fees will set forth the specific amount requested. A motion requesting a temporary order to exclude a party from a residence, to divide community property, or to order payment of debt and expenses, must state the specific relief requested, including the proposed division of property, the responsibility that each party would have to pay debts and expenses, and the income and assets that would be available to each party if the motion is granted. The motion must 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.

(b) **Response to Motion.** A party who wishes to file a response to a verified motion for temporary order must file an affidavit containing the same information that is required of the motion. The response may only respond to the claim for relief set forth in the motion for temporary order; the response may not raise a new claim for relief. If there is an additional claim from what is requested in the original motion for temporary orders, a party must file a separate motion for temporary order to set forth the claim for relief.

(c) **Limitations on Verified Motion and Affidavits.** No party will file a verified motion or affidavit under this rule that exceeds 20 pages, including attachments; the Affidavit of Income and Child Support Worksheet, if required, are excluded from the page limitation. Affidavits from nonparties filed in support of, in response to, or in opposition to a motion for temporary order will be limited to 4 per party and will be limited to the same number of pages set forth above.

(d) **Reply to Motion.** The moving party may file a reply affidavit of no more than 3 pages no later than 2 days prior to the hearing.

(e) **Service.** Service of the motion, affidavits, and legal memoranda, if any, will be governed by Rule 501(a)(3).



(f) **Temporary Order is Not a Final Judgment.** A temporary order issued pursuant to Idaho Code §§ 32-704 and 32-717 is not a judgment. It need not comply with Rule 802 and cannot be certified as a final judgment.

(Adopted March 29, 2021, effective July 1, 2021.)

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