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## **IRFLP 505 Temporary Order Issued Without Notice**

### **Idaho Rules of Family Law Procedure Rule 505. Temporary Order Issued Without Notice.**

(a) **Requirements.** The court may issue a temporary order without written or oral notice to the responding party or its attorney only if:

(1) specific facts in an affidavit or a verified motion for temporary order without notice clearly show that immediate and irreparable injury, loss, or damage will result to the moving party or minor child of the party before the responding party can be heard in opposition;

(2) the moving party or the moving party's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required; and

(3) a proposed temporary order without notice that complies with this Rule is submitted.

### **(b) Contents of Temporary Order Issued Without Notice; Expiration and Extension.**

(1) **Contents.** Every temporary order issued without notice must:

(A) describe the injury and state why it is irreparable;

(B) state why the order was issued without notice; and

(C) state the date and time for the hearing.

(2) **Expiration and Extension.** The temporary order issued without notice must be promptly filed and is only effective for a fixed period not to exceed 14 days. Prior to expiration, a party may file a motion



and affidavit stating the reasons to extend the order. The court, for good cause shown, may extend the order for an additional period not to exceed 14 days or the responding party consents to a longer extension.

(3) **Expedited Hearing.** If the temporary order is issued without notice, a hearing must be set at the earliest possible time, taking precedence over all other matters except hearings on older matters of the same character. At the hearing, the party who obtained the order must proceed with the motion; if the moving party does not, the court must dissolve the order.

(4) **Continuance of Hearing.** The responding party is entitled to a continuance for a period of not more than 14 days to respond. If the responding party obtains a continuance, the temporary order issued without notice will remain in effect until the date of the continued hearing.

(5) **Service.**

(A) **Method of Service.** The moving party must immediately serve a copy of the motion, affidavits, and order to the responding party as provided in Rule 205 (c)-(e), unless the court orders personal service. The petition and summons, as well as any other required initial orders, if not previously served to the responding party, must be served as provided in Rule 204 prior to the hearing.

(B) **Time for Service.** The moving party must serve the motion, affidavits, and order within 5 days of entry or 2 days prior to the hearing, whichever is sooner.

(6) **Response to Motion.** The responding party may file affidavits in response to the motion subject to the limitations set forth in Rule 504(c), and if the affidavits are served on the moving party at least 2 days prior to the hearing, the moving party will not be entitled to a continuance of the hearing unless good cause is shown.

(7) **Motion to Dissolve.** On 2 days' notice to the moving party or on shorter notice set by the court, the responding party may appear and move to dissolve or modify the order. The court must then hear and decide the motion as promptly as justice requires.

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



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