FAMILY COURT MATTER

INSTRUCTIONS
For
REQUEST FOR TEMPORARY RELIEF PENDING FINAL HEARING WITHOUT CHILDREN

The following court forms will be needed to request temporary relief:

Notice of Motion and Motion for Temporary Relief Without Children
Affidavit in Support of Motion for Temporary Relief Without Children
Parenting / Financial Disclosure Statement
Affidavit of Personal Service
Affidavit of Service by Mail

Helpful materials may be found at your public county law library. For a directory, see http://mn.gov/law-library/research-links/county-law-libraries.jsp . For more information, contact your court administrator or call the Minnesota State Law Library at 651-296-2775.

IMPORTANT NOTICES

- USE THE REQUEST FOR TEMPORARY RELIEF WHTOUT CHILDREN FORM **ONLY** IF YOU AND YOUR SPOUSE **DO NOT HAVE** MINOR CHILDREN TOGETHER.

- COURT PERSONNEL AND THE COUNTY ATTORNEY'S OFFICE **CANNOT** HELP YOU FILL OUT COURT FORMS.

- THE COURT EXPECTS EVERY PERSON WHO APPEARS IN COURT WITHOUT A LAWYER TO KNOW THE LAW. IF YOU ACT AS YOUR OWN LAWYER, YOU MUST DO WHAT A LAWYER WOULD DO.

- YOU SHOULD SEE A LAWYER IF YOU DON'T KNOW HOW TO ANSWER THE QUESTIONS ON COURT FORMS OR IF YOU THINK YOUR SPOUSE WILL HIRE A LAWYER.

- YOU **MUST** FILL OUT ALL NECESSSARY FORMS FOR BRINGING A REQUEST FOR TEMPORARY RELIEF AND YOU **MUST** FOLLOW THE INSTRUCTIONS COMPLETELY.

- TYPE YOUR ANSWERS OR PRINT NEATLY USING DARK INK.

- IF YOU NEED MORE SPACE TO ANSWER A QUESTION, USE AN ADDITIONAL FULL SHEET OF PAPER.

INSTRUCTIONS

Step 1
Fill Out the *Notice of Motion and Motion for Temporary Relief* Form

Fill out the *Notice of Motion and Motion for Temporary Relief* form (DIV602). This form tells the court and your spouse what you are asking for from the court on a temporary basis until the final divorce decree is issued, and the date and time of the hearing.

FILL IN THE TOP PART OF THE FORM

The information to fill out the top part of the form can be found at the top of the *Petition for Dissolution of Marriage*. This information is known as "the caption," and will be the same on every form you fill out.

- Fill in the "Case No." as found at the top of the *Petition for Dissolution of Marriage*.
- On the line marked "Name of Petitioner," write the full name of the Petitioner as found on the *Petition for Dissolution of Marriage*.
- On the line marked "Name of Respondent," write the name of the Respondent as found on the *Petition for Dissolution of Marriage*.
- Check off whether your spouse is listed as the Petitioner or Respondent in this case. Write the full name and street address of your spouse.

DO NOT FILL IN THE DATE, TIME AND LOCATION OF THE HEARING YET. YOU WILL DO THAT AS PART OF STEP 4.

FILL OUT THE REST OF THE FORM
The instructions that follow are numbered the same as the questions on the *Notice of Motion and Motion* form.

1. Mediation

A mediator is a person outside the court system who helps the parties to reach an agreement to settle their differences, instead of having someone else (the Judge) decide for the parties. **NOTE: The court cannot order you and your spouse to attend mediation if you or your spouse allege domestic violence.** Check off whether you want the court to order you and your spouse to use a mediator to attempt to reach an agreement regarding one or more of the issues listed. If YES, then check off which issue(s) you would like a mediator to help you with.

2. Maintenance

Formerly called "alimony," maintenance is an amount paid by one person to the other to help cover living costs and personal expenses. Check off how you would like the court to decide the issue of temporary maintenance. Check box (a) if neither you nor your spouse should receive temporary maintenance. Check box (b) if you do not want the court to decide the issue of maintenance at this time. Check box (c) if you want your spouse to pay you a specific amount for temporary maintenance, and then fill in that amount.

3. Attorney's Fees

Check off how you would like the Court to decide the issue of attorney's fees. Check box (a) if you want the court to order you and your spouse to each pay your own attorney's fees. Check box (b) if you want your spouse to pay some or all of your attorney's fees, and then fill in the amount that your spouse should pay you. Check box (c) if you do not want the court to decide the issue of attorney's fees at this time.

4. Use of Parties' Home

Check off how you would like the court to temporarily divide use and possession of the parties' home and who should pay the mortgage and other expenses for the home:

- Check (a) if you alone want to have sole use and possession of your home until the final decree is issued. Check off who will pay the mortgage and other expenses for the home.

- Check (b) if you want your spouse alone to have sole use and possession of your home until the final decree is issued. Check off who will pay the mortgage and other expenses for the home.

- Check (c) if both you and your spouse should share use and possession of your home until the final decree is issued. Write in the expenses for the home and who should pay each housing expense.

5. Household Goods, Furniture and Furnishings

Check off how you would like the court to temporarily divide the use and possession of the parties' household goods, furniture and furnishings:

- Check (a) if both you and your spouse should keep the use and possession of the items you each have in your possession until the final decree is issued.

- Check (b) if you should have sole use and possession of certain items until the final decree is issued and then list those items.

- Check (c) if your spouse should have sole use and possession of certain items until the final decree is issued and then list those items.

6. Vehicles

The court may temporarily allow you and your spouse to use and possess certain vehicles. The court may also order one party to make loan payments and insurance payments on a vehicle, even if that party does not have use and possession of the vehicle. If you and your spouse own any vehicles, check box (a) and for each vehicle owned by the parties, list the year, make and model, and then identify to whom use and possession of the vehicle should be temporarily awarded and who should be responsible for the payment of the vehicle's loan and insurance. If you and your spouse do not own any vehicles, check box (b).

7. Debt payments

If you and your spouse have debts, check box (a) and for each debt that you and/or your spouse have, write in the name of the creditor (to whom you owe the money), the account number, the total balance owed, the amount to be paid each month and who should pay the debt each month. If you and your spouse do not have any debts, check box (b). Use Confidential Information Form 11.1 (CON111) to list the creditor's name, account numbers, and balance owed.

To protect the privacy of you and your spouse, all social security numbers, employer identification numbers, and financial account numbers must not be listed on papers you file with the court. You must use Form 11.1 when providing these confidential numbers to the court. Failure to use Form 11.1 means these numbers could be available to the general public and you could be charged court costs and the court may order other sanctions against you for the failure to keep this information private.

8. Insurance

By law, all currently available insurance coverage must be maintained and continued without change in coverage or beneficiaries. Check off whether you want the court to allow you to change certain insurance policies covering you, your spouse, or minor child(ren). If YES, write in the policy and the changes that you wish to make. Use Confidential Information Form 11.1 (CON111) to list any policy numbers, if necessary.

9. Reinstate insurance

Check off whether you want the court to order your spouse to reinstate insurance that (s)he allowed to lapse. If YES, write in the insurance that should be reinstated. Use Confidential Information Form 11.1 (CON111) to list any insurance numbers, if necessary.

10. Income changes

Check off whether you want the court to order your spouse to notify you immediately notify you of any income raises, bonuses, or other extra income, including tax returns.

11. Spend income

Check off whether you want the court to order your spouse to not spend any income raises, bonuses, or other extra income, including tax returns.

12. **Restraints**
By law, you and your spouse are not allowed to dispose of any assets except for the necessities of life, by a written agreement, or to pay for an attorney. Paragraph 12 does not require you to write anything.

13. Check off whether you want the court to allow you to sell, give away, or discard property that may belong to you, your spouse, or the parties together and explain why.

14. **Harassing behavior**
By law, you and your spouse cannot harass each other. You do not need to write anything for this paragraph/question.

15. Check off whether you want the court to grant additional relief. If YES, write in the specific additional requests.

16. You do not need to write anything for paragraph/question 16.

- **Read the Acknowledgment and sign it. Minnesota law requires the attorneys and self-represented litigants to sign the acknowledgment. By signing this, you are verifying that your legal papers are not being presented for any improper purpose (such as to harass your spouse or to delay the proceeding), that the law allows you to take this action, your statements are true and supported by evidence. If you are denying your spouse's statements, your denial also must be supported by evidence.**

- **Sign the *Notice of Motion and Motion for Temporary Relief* form. Fill in the date, your address and telephone number.**

Step 2
Fill Out the *Affidavit* form

Fill out the *Affidavit* form (DIV603). This form gives the court the information it needs to make a decision.

FILL OUT THE TOP PART OF THE FORM:

- Fill out the top part of the form the same way you did on your *Notice of Motion and Motion for Temporary Relief* form in Step 1 above.

- On the blank line after it says "STATE OF MINNESOTA, COUNTY OF _____," fill in the name of the County where you are when you sign this *Affidavit* form.

- Write your name on the line above the first numbered paragraph.

FILL OUT THE REST OF THE FORM:
The instructions that follow are numbered the same as the questions on the *Affidavit* form.

1. Check off whether you are the Petitioner or Respondent in this case as listed in the top part of the form (caption) the same way you did on the *Notice of Motion and Motion for Temporary Relief Without Children*.

2. Check your request regarding temporary spousal maintenance the same as you did on the *Notice of Motion and Motion for Temporary Relief Without Children*. If you are asking for temporary spousal maintenance, fill in the amount you need each month from your spouse and explain why you are not able to support yourself. Tell the court about your work history, whether you earn more or less now than you did before, whether you have any medical, physical or psychological problems that limit your ability to work and any other facts that make it difficult or impossible to support yourself.

3. Check whether you are asking the court to order your spouse to pay your attorney's fees the same as you did in your *Notice of Motion and Motion for Temporary Relief Without Children*. Explain why you need your spouse to pay your attorney's fees.

4. Check who should temporarily live in your house the same as you did in your *Notice of Motion and Motion for Temporary Relief Without Children.* Explain your reasons why the Court should grant your request. Be specific.

5. Check whether you and your spouse have divided your personal property, household goods and furniture the same as you did in your *Notice of Motion and Motion for Temporary Relief Without Children*. If you and your spouse have not divided the personal property, explain the specific terms that you want and why you should have them. Explain the specific items your spouse should have and why (s)he should have them.

6. Check whether you or your spouse own motor vehicle(s) the same as you did in your *Notice of Motion and Motion for Temporary Relief Without Children*. If you or your spouse own motor vehicle(s), write in the motor vehicle(s) you want and the reason(s) you should have the vehicle(s). Then, write in the motor vehicle(s) your spouse may have and the reason(s) your spouse should have the vehicle(s).

   Check if you are going to make the payments and the insurance costs for your motor vehicle(s) the same way you did in your *Notice of Motion and Motion for Temporary Relief Without Children*. If you want your spouse to make these payments, write in why your spouse should be ordered to do this. Check if your spouse is going to make the payments and the insurance costs for his or her motor vehicle(s). If not, explain who will make these payments and why.

7. Check whether you and your spouse have debts. If there are debts, explain in detail who should pay the debt and why that person should be ordered to pay that debt.

8. Check whether you want to change any insurance policies the same way you did on your *Notice of Motion and Motion for Temporary Relief Without Children.* If you want to

change any policy, write the name of the policy you want to change, what the change will be, and why you want to change it.

9. Check whether there is insurance you want reinstated. If YES, explain what insurance has lapsed or has been cancelled, when it lapsed or was cancelled, who let it lapse or had it cancelled, and why it should be reinstated.
10. Check if you asked the Court in your *Notice of Motion and Motion for Temporary Relief Without Children* to order your spouse to notify you of any salary or wage increases, bonuses or other extra income. Check all possible sources for this increased income or list the specific sources. If YES, write in why you need this information.

11. Check whether you want the court to order your spouse not to spend or use other income. If YES, explain why you want the court to order this.

12. If you asked the court in your *Notice of Motion and Motion for Temporary Relief Without Children* to allow you to sell or otherwise dispose of specific property or items. List the specific property or items here and then explain why the court should grant you permission to sell or otherwise dispose of this property or these items.

13. If you asked the court for additional relief, explain why the court should grant this request.

14. Sign your *Affidavit* under penalty of perjury. This means you are stating that the information in the *Affidavit* is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

Step 3
Fill Out the *Parenting / Financial Disclosure Statement* Form

Fill out the *Parenting / Financial Disclosure Statement* form (FAM108). This form gives the Court background information regarding you and the other party. Both the *Instructions* (FAM107) and the *Parenting / Financial Disclosure Statement* form (FAM108) can be found at www.mncourts.gov/forms under the court form category of Family, or can be obtained from the court administrator.

Step 4
Obtain From the Court Administrator the Hearing Date, Time and Location

When your *Notice of Motion and Motion*, *Affidavit*, and *Parenting / Financial Disclosure Statement* have been completed contact the court administrator's office for a hearing date and time.

Fill in the date, time, location and room number of the hearing on the first page of the *Notice of Motion and Motion* form.

Step 5
Make Copies of the Forms

1. Make **two** copies of the *Notice of Motion and Motion* form, **two** copies of your *Affidavit*, and **two** copies of your *Parenting / Financial Disclosure Statement* form and all attachments (for example: pay stubs, proof of expenses).

2. Keep **one** copy of each form for yourself (make sure to bring your copies with you to court on the day of your hearing.

3. Step 6 tells you how to serve the second copy of each form upon your spouse.

4. Step 8 tells you what to do with the forms.

Step 6
Serve Notice on Your Spouse At Least 18 Days Before the Hearing Date

You must arrange for your spouse to receive notice of the hearing and complete copies of all documents you have prepared for the hearing. This is called "service of process." **A party to an action is not allowed to serve the other party to the action**. You **MUST** have someone else who is over the age of 18 serve your spouse. To serve the papers by mail, follow these instructions:

1. The **server** places **one copy** of the completed *Notice of Motion and Motion* form, **one copy** of your *Affidavit* in support of your *Motion*, and **one copy** of the completed *Parenting / Financial Disclosure Statement* (and all attachments) form in an envelope. Then, the **server** writes your return address and the last known address of your spouse on the front of the envelope. The **server** then places the correct amount of postage on the envelope (the **server** may want to take the envelope to the post office to have it weighed to insure the correct amount of postage).

2. The **server** must mail the envelope containing the forms to your spouse (or his/her attorney, if there is one) **at least 18 days before the hearing date**.

TO SERVE THE PAPERS PERSONALLY, FOLLOW THESE INSTRUCTIONS:

1. The **server** (not you) hands to your spouse, **one copy** of the completed *Notice of Motion and Motion* form, **one copy** of your *Affidavit* in support of your *Motion*, and **one copy** of the completed *Parenting / Financial Disclosure Statement* (and all attachments)

2. The **server** must give the papers to your spouse **at least 14 days before the hearing date.**

- **WARNING: IF THE OTHER PARTY (OR HIS/HER ATTORNEY) IS NOT SERVED ON TIME, YOUR *MOTION* WILL NOT BE HEARD BY THE COURT**.

Step 7
The Person Who Mailed the Envelope Fills Out the *Affidavit of Service* Form

If your server **mailed** your legal papers to your spouse, see "**A**" below.
If your server **personally handed** your legal papers to your spouse, see "**B**" below.

A. Service by Mail - After the envelope containing the forms has been mailed to your spouse, then the **server** (the person who mailed the forms to your spouse) must fill out the *Affidavit of Service by Mail* form. This form proves to the court that your papers were mailed to your spouse.

1. Fill out the top part of the form the same way you did on your *Notice of Motion and Motion* form in Step 1 above.

2. On the blank line after it says "State of Minnesota, County _____," fill in the name of the county where the server was when (s)he signed the *Affidavit of Service by Mail*.
3. Fill in the name of the person who mailed the envelope.

4. Fill in the date of birth of the person who mailed the envelope.

5. Fill in the date the envelope was placed in the mail.

6. List the papers that were actually mailed.

7. Fill in the name of the person to whom the documents were mailed (your spouse).

8. Write in the address of your spouse where the papers were mailed.

9. Write in the name of the city and state where the post office was located from which the documents were mailed.

10. The server must sign the *Affidavit of Service by Mail* under penalty of perjury. By signing the *Affidavit of Service by Mail* under penalty of perjury, the server is stating that the information in the *Affidavit* is true to the best of his / her knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

11. After it has been signed, make **one copy** of the *Affidavit of Service by Mail* for your records.

B. Personal Service - After the **server** has personally handed your papers to your spouse or your spouse's attorney, if represented, the **server** must fill out the *Affidavit of Personal Service* form included in this packet. This proves to the court that your spouse received a copy of your legal papers.

1. Fill out the top part of the form the same way you did on your *Notice of Motion and Motion* form in Step 1 above.

2. On the blank line after it says "State of Minnesota, County _____," fill in the name of the county where the server was when (s)he signed the *Affidavit of Personal Service*.

3. Fill in the name of the person who hand-delivered the documents.

4. Fill in the date of birth of the person who hand-delivered the documents.

5. Fill in the date that the papers were personally served (handed to your spouse).

6. List the papers that were actually hand-delivered.

7. Fill in the name of the person to whom the documents were hand-delivered (your spouse).

8. The server must sign the *Affidavit of Personal Service* under penalty of perjury. By signing the *Affidavit of Personal Service* under penalty of perjury, the server is stating that the information in the *Affidavit* is true to the best of his / her knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

8. After it has been signed, make **one copy** of the *Affidavit of Personal Service* for your records.

Step 8
File the Forms With the Court

The following documents **must be RECEIVED** by the Court Administrator's office in the county where your case is located **AT LEAST 14 DAYS BEFORE THE DATE OF THE HEARING**.

- The *Notice of Motion and Motion for Temporary Relief;*
- The *Affidavit in Support of Motion for Temporary Relief Without Children;*

- The *Parenting / Financial Disclosure Statement*, and all attachments;

- The *Affidavit of Service by Mail* OR *Affidavit of Personal Service*; and a filing fee; if applicable.

If you did not pay a filing fee when this case was first begun, you will now need to pay the filing fee. If you cannot afford to pay the filing fee, a judge may waive it under certain circumstances. Ask court administration for an *In Forma Pauperis (IFP)* application. This application will be reviewed by a judge who will determine whether you must pay the filing fee. If the judge does not sign the IFP form that waives the fee, you must be prepared to pay the filing fee, or the Court Administrator **cannot** accept your forms.

Step 9
Appear in Court

You must go to Court on the date set for the hearing. Be sure to be on time. Bring with you to the hearing **your copies** of all papers. **DO NOT BRING CHILDREN TO THE HEARING!** After the hearing, the judge will issue an order. The judge may issue the order at the end of the hearing or may send a copy of the order to you in the mail.