

# INSTRUCTIONS

## Motion for Temporary Relief

### Important Notices and Resources

The Court has forms and instructions, for some types of cases, as a general guide to the court process. These instructions explain the steps in more detail and answer common questions but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

#### Have questions about court forms or instructions?

- Visit [www.MNCourts.gov/SelfHelp](http://www.MNCourts.gov/SelfHelp)
- Call the Statewide Self-Help Center at 651-435-6535

#### Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit [www.MNCourts.gov/Find-a-Lawyer.aspx](http://www.MNCourts.gov/Find-a-Lawyer.aspx)

Helpful materials may be found at your public county law library. For a directory, see <https://mn.gov/law-library/research-links/county-law-libraries.jsp%20>. For more information, contact court administration or call the Minnesota State Law Library at 651-297-7651.

### Forms You May Need

- *Motion for Temporary Relief and Notice of Hearing* (CHC802);
- *Affidavit in Support of Motion for Temporary Relief* (CHC803);
- *Instructions – Parenting/Financial Disclosure Statement* (FAM107);
- *Parenting/Financial Disclosure Statement* (FAM108);
- *Instructions – Financial Affidavit* (FAM101);
- *Financial Affidavit* (FAM102);
- *Cover Sheet for Non-Public Documents (Form 11.2)* (CON112); and
- Proof of Service – for example, *Affidavit of Service by Mail* (SOP104) or *Affidavit of Personal Service* (SOP102).

Forms are available online at [www.mncourts.gov/forms](http://www.mncourts.gov/forms) (look for the “Child Custody” section).

### What You Need to Do

1. Complete the court forms, following all of the steps in these instructions.
2. Gather proof of your financial situation.
3. Contact court administration to schedule a hearing.

4. Make copies of your forms and all attachments.
5. Arrange for the other party to be served with a copy.
6. File your forms and attachments, and the proof of service (the *Affidavit of Service* form).
7. Appear at the hearing. Each “step” here is described in more detail below.

## General Information

According to [Minn. Stat. § 518.131](https://revisor.mn.gov/statutes/cite/518.131) (revisor.mn.gov/statutes/cite/518.131), the court may grant relief on a temporary basis until the final custody order is issued.

### Fill out the forms completely and accurately.

- If something does not apply to you, you may answer "N/A" (meaning "not applicable").
- If the answer to a question is "none," you can state "none."
- If you do not know the answer to a question, you can state "unknown." **But try not to leave blanks in your forms.**

## Step 1

### Fill Out *Motion for Temporary Relief* (CHC802)

The *motion* form (CHC802) is divided into the following sections:

- The **Caption** is at the top of the first page.
- The **Hearing Information** section is the other party’s notice that you have scheduled a hearing for your motion.
- The **Motion** section is where you state how you want the spousal maintenance to be modified.
- The **Notice to the Other Party** tells the other party about the right to respond to your motion and affidavit forms, what deadlines apply, and where to find forms for responding.
- The **Acknowledgment** section is required on many “pleadings” (forms used to request something from the court). This is where you acknowledge certain important things, such as that the information you include is factual and truthful.
- The **Signature Block** at the end of the motion is where you sign the form and give your contact information.

### The Caption

The caption is found at the top of the first page.

You can find information that goes in the caption on an existing form. You may also be able to find the information the section of the Minnesota Judicial Branch website called [“Minnesota Court Records Online” \(MCRO\)](http://www.mncourts.gov/Access-Case-Records/MCRO.aspx) ([www.mncourts.gov/Access-Case-Records/MCRO.aspx](http://www.mncourts.gov/Access-Case-Records/MCRO.aspx)).

- A. List the county where the case is located.
- B. List the judicial district the county is in. Each county belongs in one of ten [judicial districts](http://www.mncourts.gov/Find-Courts.aspx) ([www.mncourts.gov/Find-Courts.aspx](http://www.mncourts.gov/Find-Courts.aspx)).
- C. List the court file number. A court file number usually starts with two numbers followed by letters and more numbers (for example, 88-FA-22-1234).
- D. Fill in the case type (for example, “Dissolution with Child,” “Dissolution without Child,” or “Legal Separation”).

### **Parties’ Names**

- E. List the Petitioner’s name. Whichever party was the petitioner at the beginning of the case is still the petitioner.
- F. List the Respondent’s name.

### **Hearing Information**

Leave this section blank for now. You will fill this in when you get to **Step 5** below.

### **Motion for Temporary Relief**

At the top of this section, fill in your current name in the space provided.

The numbered paragraphs below correspond to the numbered paragraphs in the *Motion* form (CHC802).

- 1. If you have been denied parenting time with a child for 14 consecutive days or more, you can check the box at paragraph #1 to ask the Court to schedule a priority hearing.

According to Minn. Stat. § 518.131, subd. 11, a “priority hearing” means one that is held within 30 days of your request.

- 2. Check the box at paragraph #2 if you want the Court to order you and the other party to attend mediation. Then check the box or boxes to tell what issues you want to mediate.

You can learn more about mediation in the online [“Alternative Dispute Resolution \(ADR\)/Mediation” Help Topic](http://www.mncourts.gov/Help-Topics/AlternativeDisputeResolution.aspx) ([www.mncourts.gov/Help-Topics/AlternativeDisputeResolution.aspx](http://www.mncourts.gov/Help-Topics/AlternativeDisputeResolution.aspx)).

**Note:** The court cannot order you and the other party to attend mediation if either of you allege domestic violence.

**3. through 5.** These paragraphs are about **custody and parenting time**. For more information about custody and parenting time, visit the [Help Topic](http://www.mncourts.gov/Help-Topics/Child-Custody.aspx) on the Minnesota Judicial Branch website ([www.mncourts.gov/Help-Topics/Child-Custody.aspx](http://www.mncourts.gov/Help-Topics/Child-Custody.aspx)).

6. Check the box at #6 if you want the Court to order temporary child support.

Child Support is the money parents pay for the care, support, and education of their children. It may include a monthly court-ordered amount for basic support, child care, and medical support.

The Minnesota Department of Human Services (DHS) has a [child support calculator](http://www.childsupportcalculator-beta.dhs.state.mn.us/) on their website to help parents estimate the amount of child support the Court may order in a case ([www.childsupportcalculator-beta.dhs.state.mn.us/](http://www.childsupportcalculator-beta.dhs.state.mn.us/)).

7. You can ask for temporary costs and reasonable attorney's fees pursuant to Minn. Stat. § 518.131, subd. 1(d).

8. Paragraph #8 is about asking for an order saying neither party can harass, vilify, mistreat, etc., the other party or the children.

9. You may ask the Court to order the other party *not* to remove the joint minor children from the jurisdiction of the Court.

10. There may be things you think the other party could do (or could stop doing) that would help move the case along, or that would protect a party or the children from harm. Check the box at #10 if you want the Court to order the other party to do a specific task (for example, attend counseling or get an evaluation) or not do a specific task.

11. If there is anything else you want to ask the Court to order, you can add it in paragraph #11.

12. You do not have to fill out anything in #12.

## Notice to the Other Party

You do not have to do anything in this section.

## Acknowledgment

Read the statements in the Acknowledgment section very carefully. You do not have to fill out anything in this section, but each statement in the Acknowledgment section should be true. If something is not true, you are strongly encouraged to [talk to an attorney](#) before serving and filing your spousal maintenance modification forms ([www.mncourts.gov/Help-Topics/Find-a-Lawyer.aspx](http://www.mncourts.gov/Help-Topics/Find-a-Lawyer.aspx)).

## Signature Block

Sign the *Motion for Temporary Relief and Notice of Hearing* form (CHC802) and include your name and contact information in the blanks under the signature line.

Set this *motion* form aside for now. You will come back to it when you get to **Step 4** (scheduling a hearing).

## Step 2

### Fill Out the *Affidavit in Support of Motion for Temporary Relief* (CHC803), and the *Financial Affidavit* (FAM102)

The *Affidavit* form (CHC803), signed under penalty of perjury, is where you give the facts that support your *motion*. It is where you explain why you believe the court should grant the things you asked for in your *motion*.

#### The Caption

Fill out the caption at the top of the first page of the *Affidavit* the same way you did for the *Motion* in [Step 1](#).

#### The Affidavit

The numbered paragraphs below correspond to the numbered paragraphs in the Affidavit form (CHC803).

1. Fill in your full name and check the box to tell whether you are the petitioner or respondent in this case.
2. Tell whether there is a **child protection case** involving any of the children. If there is a case, then give details about the case (for example, where the case is located and the court file number).
3. Tell whether there is an **Order for Protection** (OFP) in effect involving you, the other party, and/or the children. If there is an OFP, be sure to include a copy.
4. Give information about the minor children in #4. First, fill in the blank to show how many minor children you and the other party have together.

Then fill in the requested information about each child.

Add paper if you need more room.

5. Check the box in #5 to let the Court know whether you asked for a priority hearing because you have been denied parenting time with a child for at least 14 straight days. A priority hearing is one that is held within 30 days. If you did make this request, be sure to explain your situation.
6. Check the box to show whether you asked the Court to order mediation and explain your choice.
7. In #7a through #7c, check the box to show what you requested in the *motion* regarding temporary custody and parenting time.

8. Then in #8, explain how your requests are in the children's best interests.
9. Describe the parenting time each parent had with each child before this court case was started.
10. In #10, check the box to let the Court know whether you asked for temporary child support. If you did, be sure to fill out the *Financial Affidavit*.
11. Check the box to show whether you asked for an order regarding temporary costs and attorney's fees.
12. In #12, include other facts that support your request for temporary relief.

## Signature Block

When you sign the *Affidavit*, you are signing under the penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth. By signing under penalty of perjury, you are stating that the information in your *Affidavit* is true to the best of your knowledge.

Date and sign the *Affidavit*. Then fill in the name of the county and state you are in when you sign it and include your personal contact information below your signature.

### Step 3

**Fill out the *Cover Sheet for Non-Public Documents (Form 11.2) (CON112)***  
**Fill out the *Confidential Information Form (Form 11.1) (CON111)* When Necessary**

**Note!** Most documents filed with the court are considered public documents and are available to the public. Certain information that is filed with the court may be considered confidential based on court rule and not available to the public. To keep this information confidential and not available to the public, you must take certain steps that are described below.

**The steps listed below are for filers who are filing paper documents.** Filers who are using eFS to submit their court documents must identify and designate their filings as required in Minn. Gen. R. Prac. 11.03 and 14.06.

## Confidential Information Form 11.1

All social security numbers, employer identification numbers, and financial account numbers (also called "restricted identifiers") must not be listed on papers you file with the court. This is to protect your privacy, the other parties and your children. Only provide social security numbers, employer identification numbers, and financial account numbers when the court requires this information to be provided to the court. For example, if you must provide the court with bank account numbers, or medical account numbers, do not include any account number in your document (your motion, supporting affidavit, etc.). Instead, you must use Form 11.1 to list these confidential numbers.

If account numbers are not required to be provided to the court, and the numbers appear on documents that are considered available to the public, (such as medical invoices or credit account

numbers on statements) you must remove the number on the document before filing the document with the court.

## Cover Sheet for Non-Public Documents Form 11.2

Most documents filed with the court are public. However, some documents are considered non-public documents based on court rules. You **must** identify these documents as non-public at the time you file the documents with the court. You must complete and file the “Cover Sheet for Non-Public Documents Form 11.2 (also called Form 11.2 cover sheet) when you file non-public documents. The most common non-public documents are called “financial source documents.” Examples of financial source documents include:

- Paycheck stubs, employer statements, W-2 forms, or business income and business expenses
- Copies of your tax returns and schedules
- Bank statements
- Credit card statements
- Check registers

You may also need to submit other documents that court rules identify as non-public documents, such as a medical record. For example, a report from a doctor that provides a medical diagnosis or treatment plan for you or your child would qualify as a medical record.

You must use the Form 11.2 cover sheet when filing other non-public documents, such as medical records, with the court. One Form 11.2 cover sheet can be used for submitting all non-public documents.



**The failure to use Form 11.2 or Form 11.1 may result in your document being rejected by court administration, being available to the public, stricken from the court record, and sanctions from the court.**

See Rule 11 of the Minnesota General Rules of Practice for more information about how to file documents containing social security numbers, financial account numbers, “financial source documents” and other non-public documents.

Form 11.1 and Form 11.2 can be found at [www.mncourts.gov/forms](http://www.mncourts.gov/forms) under the court forms category “Confidential Information.” Look for court form numbers CON111 and CON112, and for the **instructions** (CON110).

### Step 4

#### Fill Out the Parenting/Financial Disclosure Statement (FAM108)

Fill out the Parenting / Financial Disclosure Statement form. This form gives the court background information regarding you and the other party. This form and its Instructions can be found under the Court Forms Category of “Family” (court forms FAM107 and FAM108).

## Step 5

### Contact Court Administration to Schedule a Hearing and Add the Hearing Information to the *Motion and Notice of Hearing Form (DIV2002)*

1. Contact court administration in the county where your case is located. You can find the phone number on the [Minnesota Judicial Branch website](http://www.mncourts.gov/Find-Courts.aspx) (www.mncourts.gov/Find-Courts.aspx).
2. Let them know that you want to file *motion forms* to ask the court for **temporary relief**. Ask for the following information noted below in a through d and add the information to the “Hearing Information” section of the *Motion for Temporary Relief and Notice of Hearing (CHC802)* that you filled out in **Step 1**.

To the Other Parties:

Hearing Information	
The hearing in this case is scheduled as follows:	
Date: <u>Month DD, 20YY</u> <b>A</b>	Time: <u>Time</u> <input type="checkbox"/> a.m. / <input type="checkbox"/> p.m.
Judicial Officer: <b>B</b>	<u>Name of Judicial Officer (judge or referee)</u>
<b>C</b>	<b>NOTE:</b> Please contact the court at <u>Court's Area Code + Phone Number</u> (telephone number) with your current phone number and mailing address in case they need to notify you of any location, date, or time change.

- a. Hearing date and time;
- b. The name of the judicial officer;
- c. The best phone number to include on the motion form; and
- d. Whether the hearing will be a [remote hearing \(virtual\)](#) or held in person at the courthouse (www.mncourts.gov/Remote-Hearings.aspx).
  - If the hearing will be in person, ask for the address of the courthouse, or find the address online.



According to court administration, the hearing will be:

☐ **Remote using Zoom.** Court administration will send parties the meeting ID and passcode in a hearing notice. See the "Remote Hearing Information" Help Topic online at [www.mncourts.gov/Remote-Hearings.aspx](http://www.mncourts.gov/Remote-Hearings.aspx).

**OR**

☐ **In Person.**  
 Courthouse address: Courthouse address  
 City/State/Zip: City, MN 55111

## Step 6

### Make Copies of Forms and Attachments

Make two copies of the completed forms:

- *Motion for Temporary Relief and Notice of Hearing* (CHC802);
- *Affidavit in Support of Motion for Temporary Relief* (CHC803);
- *Parenting/Financial Disclosure Form* (FAM108);
- *Financial Affidavit* (FAM102); and
- All other documents that support your motion and affidavits (for example, pay stubs, tax returns, proof of expenses, etc.).

Do not make copies of *Form 11.2* (CON112) or *Form 11.1* (CON111), unless you want copies for your own records.

Keep one copy of each form and one copy of all supporting documents for yourself (remember to have your copies with you at your hearing).

The next step is serving the other party. See **Step 7** below.

## Step 7

### Serve Copies of the Forms and Supporting Documents on the Other Party

#### Overview

The other party must receive complete copies of all documents you have prepared for the hearing. This is called "[service of process](http://www.mncourts.gov/Help-Topics/Service-of-Process.aspx)." ([www.mncourts.gov/Help-Topics/Service-of-Process.aspx](http://www.mncourts.gov/Help-Topics/Service-of-Process.aspx))

The papers can be served personally (handed to the other party), or by mail. If papers are served by mail, Court Rules require adding three days. Papers cannot be served on a legal holiday as defined in [Minn. Stat. § 645.44, subd. 5](http://www.revisor.mn.gov/statutes/cite/645.44) ([www.revisor.mn.gov/statutes/cite/645.44](http://www.revisor.mn.gov/statutes/cite/645.44)).

**Note:** If the other party is represented by an attorney, serve the other party's attorney, instead of the party directly.

#### Who Can Serve

The forms you have prepared can be served by any of the following:

- The sheriff;
- Another adult; or
- You.

## Personal Service

At least 21 days before the hearing date, one copy of your forms and supporting documents are hand-delivered to the other party personally or are left at that party's place of residence with some person who is of suitable age or discretion who also lives at the same residence.

## Service by Mail

At least 24 days before the hearing date, one copy of your forms and supporting documents are mailed by first class U.S. mail to the other party.



**Warning:** If your forms and supporting documents are not timely served upon the other party (or their attorney), your motion may not be heard by the court.

### Step 8

#### Fill Out the *Affidavit of Service* Form

The person who hand-delivered or mailed the forms and supporting documents must fill out an *Affidavit of Service* form for each party served.

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

There are *Affidavit of Service* forms on the Minnesota Judicial Branch website in the ["Service of Process" category](http://www.mncourts.gov/GetForms.aspx?c=33) (www.mncourts.gov/GetForms.aspx?c=33).

### Step 9

#### File the Forms and Supporting Documents with Court Administration and Pay Any Required Court Fee

File the forms and supporting documents with court administration in the county where your case is located as soon as practical but no later than 21 days before the scheduled hearing:

- *Motion for Temporary Relief and Notice of Hearing* (CHC802);
- *Affidavit in Support of Motion for Temporary Relief* (CHC803);
- *Parenting/Financial Disclosure Form* (FAM107);
- *Financial Affidavit* (FAM102);

- All other documents that support your motion and affidavits (for example, pay stubs, tax returns, proof of expenses, etc.); and
- *Affidavit of Service* (for example, SOP105).

## Form 11.2

You must file copies of all supporting documents (such as pay stubs, employer statements, tax returns, disability payments, etc.) and complete and file with the court one *Form 11.2* for supporting documents that contain confidential information (see [Step 3](#)). Check your documents to make sure all blanks are filled in, especially on the *Affidavit of Service* and the *Motion*. All papers served must be identical copies of the forms and supporting documents filed with the court.

## Court Fees

Pay the [motion filing fee](#) at the time you file these papers ([www.mncourts.gov/Help-Topics/Court-Fees/District-Court-Fees.aspx](http://www.mncourts.gov/Help-Topics/Court-Fees/District-Court-Fees.aspx)). If you did not pay an [initial filing fee](#) when this case first began, you will be asked by court administration to pay the initial filing fee as well as the motion fee before your motion can be heard by the court. Court administration will be able to tell you if you have paid the initial filing fee.

If you cannot afford to pay the fee, you may qualify to have the filing fee and motion fee waived by the court. You can read more about [fee waivers on the Minnesota Judicial Branch website](#) ([www.mncourts.gov/Help-Topics/Fee-Waiver-IFP.aspx](http://www.mncourts.gov/Help-Topics/Fee-Waiver-IFP.aspx)).

You can use Minnesota Guide & File to create the forms you need to ask for a fee waiver, or you can download and print fee waiver court forms:

- [Minnesota Guide & File](#) ([www.minnesota.tylertech.cloud/SRL/SRL](http://www.minnesota.tylertech.cloud/SRL/SRL)); and
- [Fee Waiver Forms](#) ([www.mncourts.gov/GetForms.aspx?c=19&p=69](http://www.mncourts.gov/GetForms.aspx?c=19&p=69)).

A judicial officer (judge or referee) will review your fee waiver application along with the forms you want to file. The judicial officer will decide whether you must pay the fee. If the judicial officer does not sign an order that waives the fee, you must be prepared to pay the fee.

## Step 10 Attend the Hearing

Attend the hearing on the scheduled date and time.

Have with you your copy of the forms and supporting documents.