

# The Temporary Order Hearing

Once a divorce is filed, it takes at least 120 days (four months) before a divorce can be finalized. During this time the spouses or family court [commissioners](#) will decide things such as where the children will be staying, who will be paying the bills, and who will have temporary use of some of the property – like a car. If you and your spouse can't agree on these things, either spouse can ask for a hearing before a family court commissioner, who will make “temporary” orders.

A Temporary Order can include:

- Who will stay in the house
- Who will drive what car
- Who will pay the car and health insurance premiums and health care expenses
- Who will pay what debts
- Where the children will spend their time (placement)
- Who gets to make major decisions about the children (custody)
- Other things, such as whether child support or temporary maintenance should be paid.

Last updated on February 13, 2025.

## Forms

The forms that must be filled out to get a Temporary Order are: Order to Show Cause and Affidavit for Temporary Order.

Fill out:

- If you have kids: [Order to Show Cause with Minor Children](#) and [Affidavit to Show Cause and Request or Hearing for Temporary Order with Minor Children](#)
- If you don't have kids: [Order to Show Cause without Minor Children](#) and [Affidavit to Show Cause and Request or Hearing for Temporary Order without Minor Children](#)

If you and your spouse agree on a temporary order, you can fill out a form that shows your agreement:

- If you have kids: [Stipulation for Temporary Order with Minor Children](#)
- If you don't have kids: [Stipulation for Temporary Order without Minor Children](#)

Once you fill out and file the forms asking for a temporary order hearing, take the originals plus a copy of each document to court to file them and get a hearing date (usually two – three weeks later, depending upon your county). When the court returns the copies to you with a file-stamp and a court date, make more copies.

You need to personally serve a copy of the documents on your spouse at least five business days before the hearing. If the State of Wisconsin is a party to the divorce (either spouse receives public assistance or either party is asking for [child support](#)), the county child support agency must be served with a copy of the papers as well. See the [service instruction packet](#) for more information.

You must go to the hearing if you want to have a say in what the temporary order should be. Most hearings are before a family court commissioner and last from 20 minutes to an hour, depending on the things you and your spouse do or don't agree on.

### What to bring to a temporary order hearing

Each spouse must bring a completed [financial disclosure statement](#) to the hearing. Bring three copies to the hearing.

1. Consider any disagreements you and your spouse have regarding your children:
  - a. How should the kids share their time with their parents?
  - b. Should both parents share [custody](#) (make major decisions) of the children?
  - c. If not, are there compelling reasons not to want joint custody (i.e. abuse)?
  - d. Who do the kids spend most of their time with now?
  - e. How often do the kids see the other parent?
  - f. How do you propose to divide up the children's time between the parents?
  - g. Prepare a specific schedule on how you want the kids to share their time between parents.
  - h. In your proposal, be sure to say where the kids will sleep each night.

2. Is an award of [child support](#) appropriate?
  - a. Are there any special costs for the children?
  - b. Does either party pay child support for any other children?  
**See** the [Child Support Article](#) for more information about child support
3. Consider any property issues
  - a. Who should have temporary use of the family home? (If you want temporary use of the home, be prepared to show why you should have it and not your spouse)
  - b. Are there any other items that your spouse has that you need now?
4. Gather Evidence
  - a. What do you want to prove to the judge/commissioner?
  - b. What documents support your case?
  - c. You MUST bring:
    - i. At least 12 weeks of ALL pay stubs
    - ii. Tax returns or W-2s for the past 2 years (Tax returns preferred)
    - iii. If unable to work, you must bring medical documentation

**IMPORTANT:** bring the original plus two copies of any document you want to show the court
5. Prepare and Organize
  - a. Organize your documents so that you can find them easily (i.e. marked folders)
  - b. Have paper and a pen to write down questions and concerns as you think of them

Keep in mind:

This hearing is NOT your final hearing. It is designed to address issues that need to be dealt with on a temporary basis before the final hearing.

How to behave during the hearing

- Be respectful of your spouse and the Court Commissioner.
- Don't interrupt. If you disagree with anything your spouse or their attorney says, write down your concerns so you may address them when it is your turn to talk.

- Be organized and prepared.
- Be prepared to answer questions from the Court Commissioner.
- When you are answering, LISTEN to the questions carefully & Be SPECIFIC in your answer.

After the Family Court Commissioner has heard from both sides, the Commissioner will either decide then or “take it under advisement” and send you a decision later by mail.

Either way, you should receive a written copy of the decision/order. This Order must be followed by both parties.

- If either party does not agree with the decision, they can request a Trial De Novo to have a Circuit Court Judge decide the issues. You must request a Trial De Novo in writing within 10 days after the entry of the decision ([Motion for and Notice of New \(DeNovo\) Hearing](#)). The Court Commissioner will have more information about this.

## Definitions

**Financial Disclosure Statement (FDS):** A document that fully and completely describes your income, expenses, assets, and debts to the court. You MUST bring a completed Financial Disclosure Statement to the Temporary Order Hearing. It is a inventory of your income, assets and debts, not a statement of how you want to divide them.

**Legal Custody:** In Wisconsin, it is a parent’s right and responsibility to make MAJOR DECISIONS regarding the child. Major decisions include, but are not limited to, school, religion, authorization for non-emergency health care. Usually, parents share legal custody. This means that neither parent can override the other parent’s decision, unless the court otherwise orders. Joint Custody is typically ordered unless you can show one of the following:

- Pattern of abuse by one parent
- Serious incident of abuse by parent
- One parent is not capable of or does not want an active role in raising the child

Sole custody means only one parent has legal custody. A parent will still have the right to see and spend time with their children even if the other parent is granted sole custody.

**Physical Placement:** A parent's right to have the child(ren) spend time with them, care for them, and make routine daily decisions.

### [Family Law Divorce Divorce Process](#)

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