



**26<sup>th</sup> Judicial District  
SelfServe Center**

**TEMPORARY EMERGENCY CUSTODY**

**NOTE:**

THIS PACKET CONTAINS INFORMATION REGARDING FILING A MOTION FOR  
TEMPORARY EMERGENCY CUSTODY

DUE TO THE CHANGING NATURE OF THE LAW, the forms and information contained in this packet may become outdated. Therefore, you should review and research statutes and rules of procedure referenced in the instructions to ensure that the forms are accurate and current.

**IF THERE ARE ANY QUESTIONS concerning these forms, the use of these forms, or your legal rights, it is strongly recommended that you consult with or retain an attorney.**

IN NO EVENT will the SelfServe Center staff, Clerk of Court, Family Court Administrators Office, or anyone contributing to the production of these forms, instructions, or guidelines be liable for any indirect or consequential damages resulting from the use of the forms or information provided to you by the SelfServe Center.

USE THESE FORMS AT YOUR OWN RISK. THESE FORMS MAY OR MAY NOT BE APPROPRIATE IN YOUR PARTICULAR CASE. ANY DESIRED OUTCOME FROM THE USE OF THESE FORMS CANNOT BE PREDICTED OR GUARANTEED. IT IS STRONGLY RECOMMENDED THAT YOU SEEK LEGAL ADVICE!

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free to file



THIS PACKET IS FOR FILING AN EMERGENCY  
CUSTODY MOTION ONLY. PLEASE OBTAIN A CHILD  
CUSTODY PACKET TO MAKE PERMANENT  
CUSTODY ARRANGEMENTS.

PLEASE CAREFULLY READ THE FORMS AND  
INSTRUCTIONS CONTAINED IN THIS PACKET.

IF YOU HAVE ANY QUESTIONS, PLEASE CONSULT  
WITH AN ATTORNEY.

THESE ARE EDUCATIONAL FORMS DESIGNED TO  
ASSIST YOU, BUT YOU ARE REPRESENTING  
YOURSELF. PLEASE REVIEW AND FOLLOW THE  
DIRECTIONS TO IMPROVE YOUR PERFORMANCE IN  
YOUR CASE. FAILURE TO READ AND FOLLOW THE  
INSTRUCTIONS MAY ADVERSELY IMPACT YOU.

## INTRODUCTION

### **What is this packet?**

This packet of information is provided for individuals who wish to file a Motion for Emergency Custody without the assistance of an attorney. This is called a *pro se* or self represented case. If you are not sure that you want or need to go to court, please ask the Self Serve Center or Family Court staff to direct you to a lawyer referral service or list of local attorneys willing to provide “unbundled services” (*representation for a limited portion of a case at an hourly rate*).

### **How will it help me?**

If you do not plan to use an attorney, this packet will guide you through the process by providing certain forms you will need. Since you are representing yourself, it is YOUR responsibility to ensure that these are the correct forms for the nature of your case. Therefore, you should review and research *applicable laws and rules of procedure* that apply to your type of case. If you are not able to do this, you should talk with an attorney. If at any point during the process you become confused or wish to proceed with the help of an attorney, contact the Mecklenburg County Bar Lawyer Referral Service at (704) 375-0120 or the North Carolina Bar Lawyer Referral Service at (800) 662-7660.

### **What does this mean?**

Certain legal terms will be used throughout your case. A complete legal glossary is available for your convenience in the SelfServe Center. If you still do not understand the term, consult a legal dictionary or the SelfServe Center staff. You may also want to consult a law library for the North Carolina Rules of Court and the website www.nccourts.org to review the local rules for Mecklenburg County. Staff CANNOT provide legal advice, but can provide procedural information and definitions of legal terms

### **What is a Motion for Ex Parte Temporary Emergency Custody?**

The Motion for Ex Parte Temporary Emergency Custody allows for an individual to request Temporary Emergency Custody of a child or children in emergency situations. These particular situations are outlined in N.C.G.S. 50-13.5(d)(3). Based upon the information provided to the court, the assigned judge, governed by N.C.G.S. 50-13.5(d)(3), the considerations of the child's safety shall make a ruling on whether or not to grant or deny an Emergency Custody Order.

### **Can I or should I file a Motion for Emergency Custody?**

Please note that the SelfServe Center staff CANNOT provide legal advice. Therefore, we cannot tell you if you should file a Motion for a Ex Parte Emergency Custody but, we can tell you that if you meet the guidelines set forth in N.C.G.S. 50-13.5(d)(3) and have already filed a pleading for custody/visitation and would like to file a Motion for Temporary Emergency Custody informing the judge of the circumstances which warrant the need for this action, this packet is for you. This packet is designed to assist with the preparation of forms for a Motion for Ex Parte Temporary Emergency Custody.

### What do I do first?

1. After you get the packet, **READ THE INSTRUCTIONS**. You should read through the entire packet before filling out any forms. Once you have read all the instructions, fill out the forms provided by typing or printing *neatly* in ink. You may fill the forms out at home or at the courthouse. Please read the forms carefully.
2. In order to file a Temporary Emergency Custody Motion, you must file a Pleading/Complaint seeking Child Custody and/or Visitation. (See N.C.G.S. 50A-209). To file a Pleading/Complaint for Child Custody and/or Visitation go to the SelfServe Center, which is in Suite 3350 of the Mecklenburg Courthouse.

### IMPORTANT REMINDERS BEFORE YOU BEGIN

Your case involves complicated legal issues! This packet describes the general process, but it is impossible to cover everything that may affect your rights. If you get confused during the process, you should stop and get advice from an attorney. Judges, Clerk of Court, or the SelfServe Center staff **CANNOT** give you legal advice. All persons (attorneys and self-represented parties) are required to know and follow the court rules. If you choose to represent yourself, you are responsible for reading and understanding the State and Local Rules of Court.

# Filing for Temporary Emergency Custody

## STEP 1

### Reviewing Your Documents

#### \*\*\*CHECKLIST\*\*\*

Review your packet to make sure that the following documents are included:

- Form 1- Motion for Temporary Emergency Custody
- Form 2- Verification Form
- Form 3- Certificate of Service

Once your motion for temporary emergency custody and verification forms have been filed with the Clerk's Office you are required to may submit one copy to the Family Court Administrators Office, Suite 3350 and then serve the other party.

## STEP 2

### Filling Out Your Documents

**ATTENTION:** These forms are ONLY for a Ex Parte Temporary Emergency Custody. Please obtain a Child Custody packet if you have not already filed the appropriate forms with the Court and submit it prior to filing this Motion.

Step 1- Create your Emergency Custody Motion.

- i. The motion must have The Plaintiff and Defendant's name in the upper left section of the motion.
- ii. The case number should be in the upper right section of the motion (you will obtain this from the Clerk's Office). (See attached example sheet)

Step 2- Once you have completed your motion for Temporary Emergency Custody, you must get it notarized by a notary. (There is a notary in the Self Serve Center to assist you with that).

### STEP 3

#### **Photocopying the Documents**

Make two (2) copies of the following documents in Civil Files Department, Room 3342. You will need a total of three (3) copies for the Defendant, the clerk's Office, and for you to maintain for your records.

Form 1; Temporary Emergency Custody  
Form 2- Verification Form

### STEP 4

#### **Filing the documents**

After you have completed the above steps, you must file the documents with the Civil Filing Department (832 E. Fourth Street, Room 3725).

Step 1- You will take the forms that you photocopied to the Clerk's Office, Room 3725.

Step 2- Next you will take a copy of the motion to the Family Court Case Coordinator, Suite 3520. The Family Court Case Coordinator will make copies of your motion and hand them back to you along with the original motion.

Step 3- Once you receive your original motion along with the copies, you will return to the Civil Filing Department, which is in Suite 3725 and get all of the papers file-stamped. The Clerk's Office will keep the original motion and return to you the copies.

Step 4- Finally, take the copies that were returned to you and hand one of the copies back to the Family Court Case Coordinator. The other two copies will be for you and the Defendant. Be sure to provide the Family Court Case Coordinator with your mailing address and phone number.

It is **your responsibility** to make sure that the other party receives a copy of your motion.

## STEP 5

### Receiving an Emergency Custody Order

Step 1- The Family Court Case Coordinator will take your Emergency Custody Motion before the assigned judge, so the judge can rule on it. Please remember that in ruling on your Emergency Custody Motion, the judge will be governed by N.C.G.S. 50-13.5(d)(3), and by the considerations of the child's safety and availability for future hearings. (See attached sheet for a copy of N.C.G.S. 50-13.5(d)(3))

- 1) Once the judge rules on your Emergency Custody Motion, and writes out an Order either granting or denying your Emergency Custody Motion the Family Court Case Coordinator will make copies of that order and have the original plus the copies file-stamped at the Civil Clerk's Office.
  - i. If the assigned judge creates an order granting your Ex Parte Emergency Custody Motion, the assigned judge shall schedule a hearing within ten (10) calendar days through the Family Court Office. This hearing date will be written on the order itself.
  - ii. If the assigned judge creates an order denying your Ex Parte Emergency Custody Motion, the assigned judge may schedule a hearing through the Family Court Office. This hearing date will be written on the order itself.
  - iii. If the assigned judge creates an order denying your Ex Parte Emergency Custody Motion and does not schedule a hearing, then that does not mean that your child custody case is terminated. Your child custody case will still proceed through our usual methods.

Step 2- The Civil Filing Department will keep the original Emergency Custody Order and the Family Court Case Coordinator will either personally deliver or mail the copies of the Emergency Custody Order back to you.

Step 3- Once you receive the copies of the Emergency Custody Order then it is your responsibility to make sure the other party receives one of the copies of the Emergency Custody Order and your Emergency Custody Motion.

#### **Lawyer Referral Services:**

*Mecklenburg County Bar Lawyer Referral Service: (704) 375-0120 or [www.meckbar.org](http://www.meckbar.org)  
North Carolina Lawyer Referral Service: (800) 662-7660 or [www.ncbar.org](http://www.ncbar.org)*

**NORTH CAROLINA TEMPORARY  
EMERGENCY CUSTODY STATUTE  
50-13.5(d)(3)**

(d) Service of Process; Notice; Interlocutory Orders. -

(3) A temporary order for custody which changes the living arrangements of a child or changes custody shall not be entered ex parte and prior to service of process or notice, unless the court finds that the child is exposed to a substantial risk of bodily injury or sexual abuse or that there is a substantial risk that the child may be abducted or removed from the State of North Carolina for the purpose of evading the jurisdiction of North Carolina courts.



STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
00 -CVD- 000 (AAA)

JANE DOE, )  
 )  
 **Plaintiff,** )  
 )  
 v. )  
 )  
 JOHN DOE, )  
 )  
 **Defendant.** )

EX PARTE  
MOTION FOR TEMPORARY  
EMERGENCY CUSTODY

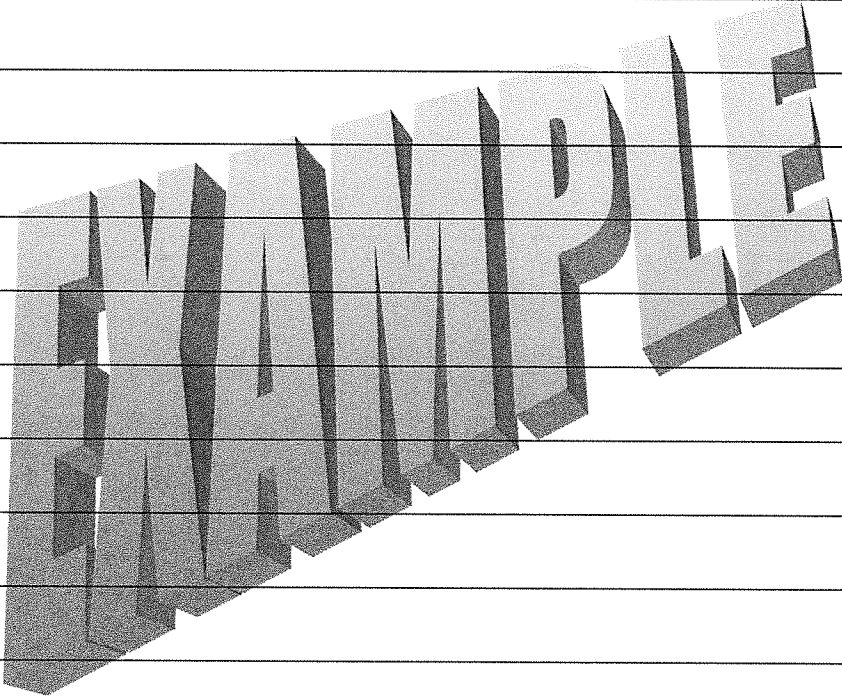
Plaintiff  Defendant alleges and says:

1. Plaintiff is a citizen and resident of MECKLENBURG, NC.  
*(County and State)*
2. Plaintiff's address is 000 FAKE NAME STREET, CHARLOTTE, NC 28202.
3. Defendant is a citizen and resident of MECKLENBURG, NC.  
*(County and State)*
4. Defendant's address is 000 MADE UP NAME STREET, CHARLOTTE, NC 28202.
5. Plaintiff's relationship to child: MOTHER.  
*(Mother, Father, etc.)*
6. Defendant's relationship to child: FATHER.  
*(Mother, Father, etc.)*
7. The name(s) and birth date(s) of the child or children at issue in this case is/are:  
Name JIM DOE Birth date: MAY 5, 2005  
Name JANET DOE Birth date: JUNE 5, 2000  
Name \_\_\_\_\_ Birth date: \_\_\_\_\_  
Name \_\_\_\_\_ Birth date: \_\_\_\_\_

8.  Plaintiff  Defendant is seeking an award of temporary emergency custody of the minor child/children based on:

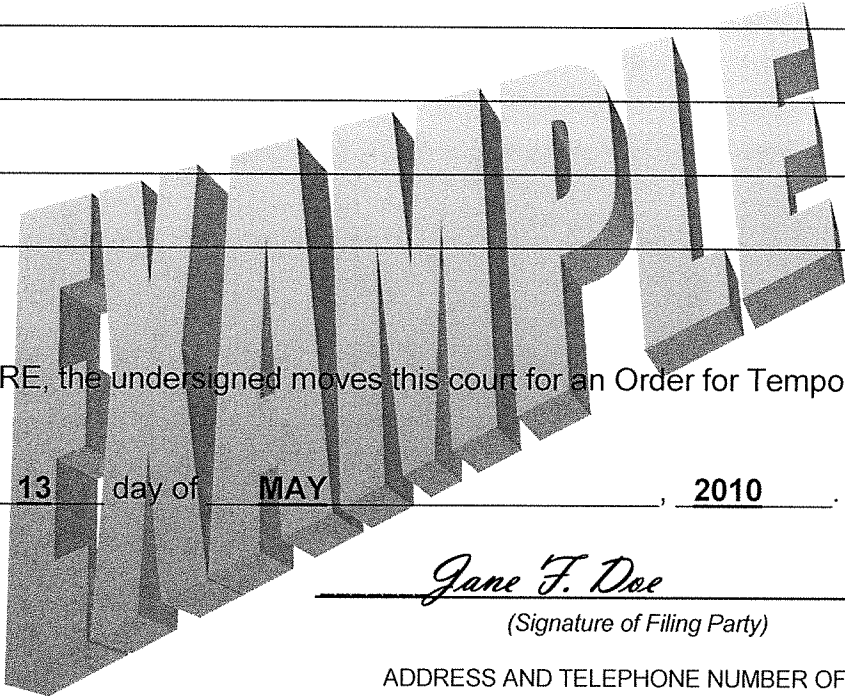
\_\_\_\_\_  
THIS IS WHERE YOU WRITE YOUR  
REASON FOR WANTING TEMPORARY  
EMERGENCY CUSTODY.

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\_\_\_\_\_



9. The child(ren) currently reside with JANE DOE, and have resided with  
*(Name of person)*  
resided with him/her since JUNE 2008.  
*(Date or Approximate Date)*

10. Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



WHEREFORE, the undersigned moves this court for an Order for Temporary Emergency Custody.

This 13 day of MAY, 2010.

Jane F. Doe  
*(Signature of Filing Party)*

ADDRESS AND TELEPHONE NUMBER OF FILING PARTY:

000 FAKE NAME STREET  
CHARLOTTE, NC 28202  
(704) 000-0000

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF MECKLENBURG )

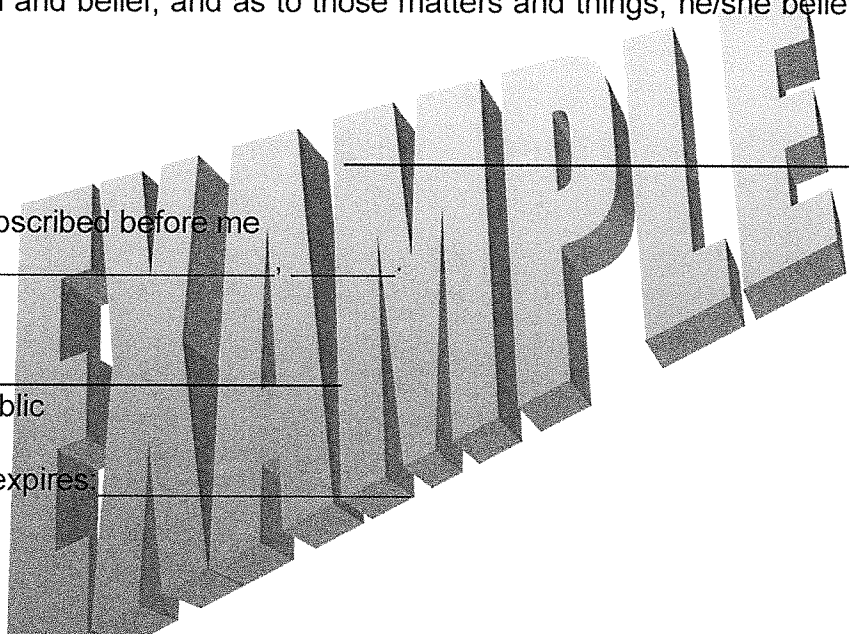
VERIFICATION

\_\_\_\_\_, being first duly sworn, deposes and says that he/she is the FILING PARTY in the foregoing action, that he/she has read the foregoing MOTION FOR TEMPORARY EMERGENCY CUSTODY and knows the contents thereof to be true of his/her own personal knowledge except for those matters and things alleged therein upon information and belief, and as to those matters and things, he/she believes same to be true.

Sworn to and subscribed before me  
this \_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_



**THIS PAGE NEEDS TO BE SIGNED  
IN FRONT OF A NOTARY AFTER  
YOU HAVE WRITTEN YOUR  
MOTION FOR TEMPORARY  
EMERGENCY CUSTODY.**

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE  
DISTRICT COURT DIVISION  
\_\_\_\_\_-CVD-\_\_\_\_\_( )

\_\_\_\_\_, )  
 )  
**Plaintiff,** )  
 )  
v. )  
 )  
\_\_\_\_\_, )  
 )  
**Defendant.** )

EX PARTE  
MOTION FOR TEMPORARY  
EMERGENCY CUSTODY

Plaintiff  Defendant alleges and says:

1. Plaintiff is a citizen and resident of \_\_\_\_\_.  
*(County and State)*
2. Plaintiff's address is \_\_\_\_\_.
3. Defendant is a citizen and resident of \_\_\_\_\_.  
*(County and State)*
4. Defendant's address is \_\_\_\_\_.
5. Plaintiff's relationship to child: \_\_\_\_\_.  
*(Mother, Father, etc.)*
6. Defendant's relationship to child: \_\_\_\_\_.  
*(Mother, Father, etc.)*
7. The name(s) and birth date(s) of the child or children at issue in this case is/are:  
Name \_\_\_\_\_ Birth date: \_\_\_\_\_  
Name \_\_\_\_\_ Birth date: \_\_\_\_\_  
Name \_\_\_\_\_ Birth date: \_\_\_\_\_  
Name \_\_\_\_\_ Birth date: \_\_\_\_\_



9. The child(ren) currently reside with \_\_\_\_\_, and have resided with  
*(Name of person)*

resided with him/her since \_\_\_\_\_.  
*(Date or Approximate Date)*

10. Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WHEREFORE, the undersigned moves this court for an Order for Temporary Emergency Custody.

This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
*(Signature of Filing Party)*

ADDRESS AND TELEPHONE NUMBER OF FILING PARTY:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF NORTH CAROLINA )  
 )  
COUNTY OF MECKLENBURG )

VERIFICATION

\_\_\_\_\_, being first duly sworn, deposes and says that he/she is the FILING PARTY in the foregoing action, that he/she has read the foregoing MOTION FOR TEMPORARY EMERGENCY CUSTODY and knows the contents thereof to be true of his/her own personal knowledge except for those matters and things alleged therein upon information and belief, and as to those matters and things, he/she believes same to be true.

\_\_\_\_\_  
Sworn to and subscribed before me

this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_



**CERTIFICATE OF SERVICE**

I hereby certify that I have served this Motion for Temporary Emergency Custody on the Plaintiff / Defendant (*Circle One*) by delivering a copy of this Motion for Temporary Emergency Custody to the US Postal Service, in an envelope with postage paid, addressed to the Plaintiff / Defendant (*Circle One*) as follows: (*insert name and address of the Plaintiff or Defendant below*)

\_\_\_\_\_  
*Name*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*Town, State, Zip Code*

This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.  
*(date) (month) (year)*

\_\_\_\_\_  
*(Plaintiff / Defendant sign your name here)*