

# **File for and respond to temporary or immediate orders**

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This guide explains the differences between a motion for temporary orders and a motion for immediate restraining orders. It has step-by-step instructions to ask for or respond to both temporary and immediate orders, and what to expect at the hearing.

## **1. Fast facts**

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This information is for family law cases. This includes divorces, legal separation, registered domestic partnerships, parentage, child support, and modifications of parenting plans and child support orders.

### **What are temporary orders?**

A judge can make temporary orders to put rules in place while a family law case is ongoing, before a final decision is made. These orders are meant to deal with immediate needs and provide stability during what can be a difficult

time. Temporary orders usually last until the judge changes them or replaces them with final orders when the case is finished.

“Judge” here refers to judges and court commissioners.

## When can I ask for temporary orders?

You can file a motion for temporary orders any time after a family law case is started until it is finalized. If you’re the one starting the case, you can ask for temporary orders at the same time you file your petition.

## What issues can temporary orders cover?

Temporary orders can cover any issues in your family law case. Common issues include finances, property, alimony (called maintenance in Washington law), safety, child support, parenting plans, and Guardians ad Litem.

Here are some examples of situations where you should ask for temporary orders:

- You’re getting divorced. You and your spouse have only one car between the two of you. Your spouse can get to work on the bus, but you must drive. You need possession of the car until you can buy one of your own.
- In a parenting plan case, you need an order saying who the children will live with because you can’t agree about that.
- In a registered domestic partnership dissolution, you need temporary maintenance until you can get on your feet financially.

This isn't a complete list.

## **()How are immediate restraining orders different from other temporary orders?**

Immediate restraining orders are a type of temporary order, but you should file for them in urgent situations only. Immediate restraining orders take effect immediately and are meant to address an emergency right away, often before the other side is even notified. The procedure for getting them is different than the procedure for getting temporary orders, which takes longer.

Here are some examples of situations where you could ask for immediate restraining orders:

- In any family law case involving children under age 18, the children's other parent has made serious threats to abduct the children. The other parent could easily move and disappear. You can get an order stopping the other parent from leaving the area with the children.
- In a legal separation or divorce, you learn that your spouse is about to leave you and close out your joint bank accounts. You can get an immediate order keeping your spouse from doing anything with any of your joint property.

This isn't a complete list.

**Safety alert!** If the other party has harmed or threatened to harm you or the children, or has harassed, or sexually assaulted you, you can file for a Protection Order for immediate protection. Protection

orders offer strong safety restraints. This is still the fastest way to get protection even if you're in a family law case. You may want to file your protection order within your existing family law case, or ask that it be assigned to the same judge.

**Firearms alert!** If you're worried about firearms, you can ask the judge to order the restrained person to surrender weapons. You can ask for this when you first file for a protection order, or restraining order, or later if your protection or restraining order doesn't include a weapons order. If law enforcement returns the restrained person's weapons, they must notify you before they do so. Give law enforcement your contact information so they can do this. Email is best.

## How are final orders different from temporary orders?

Temporary orders address temporary situations during your case. Final orders, which the judge enters to end your court case, are meant to be permanent, or at least to cover a much longer period. Because of that, it's easier to change temporary orders than it is to change final orders.

To change your temporary order, you just file a new motion for temporary orders. To change a final order, you can try asking for revision or reconsideration, but you might end up having to appeal.

## Do I have to go to a hearing to get temporary orders?

Yes, but the timing of the hearing depends on which type of temporary order you're asking for.

- **Regular temporary orders:** When you file your papers to get temporary orders, you must also schedule a hearing and give the other party a copy of your papers. This gives them notice and time to prepare for the hearing. At the hearing, the judge will decide whether to issue temporary orders.
- **Immediate restraining orders:** This is the reverse of temporary orders. First you get the immediate restraining order for a short period on an emergency basis, often before the other party gets notice. The immediate restraining order includes a notice of hearing, usually within 2 weeks. At the hearing, the judge will decide whether to keep the restraining order in place for longer. You must have the other party personally served with your motion papers and the immediate restraining order.

## 2. Ask for temporary orders

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To get temporary orders, you must file a motion asking for what you want. You must support your motion with evidence about why the judge should approve your request.

### 1. Gather your evidence and fill out forms.

There are different forms depending on the type of case and if you want a regular temporary order or an immediate restraining order.

Answer a few questions on **Get Family and Safety Forms** to get the right forms for your situation.

Check for special local rules and forms. Ask your county court clerk or family law facilitator ([https://www.courts.wa.gov/court\\_dir/?fa=court\\_dir.facils](https://www.courts.wa.gov/court_dir/?fa=court_dir.facils)) if they have their own Motion for Temporary Family Law Orders packet. If so, use theirs.

In your motion form you must **explain why** the judge should approve your requests. Think carefully about what information can help show what you are telling the judge is correct, or what the other side is saying is not true.

You can ask others to write a statement (a declaration) if they have helpful information. You can also use the declaration form for your own statement if you have more to say than what fits in your motion form.

It's important to put the reasons why you need temporary orders in writing. You and your witnesses won't be able to testify at your temporary orders hearing. The judge will

decide based on the written documents filed and any legal argument you make at the hearing.

If you have other documents that help prove your points, you can attach them as “Exhibits” to your motion or declaration forms. Organize your Exhibits so the judge can understand them. Add labels and dates to pictures, texts or emails.

**Examples to attach as Exhibits:** text messages, photos, bills, school grades, daycare records, criminal history, law enforcement records.

Some confidential documents should be filed separately under a sealed cover sheet. This keeps them out of the public court file. You must still serve them on the other party. **Examples:** paystubs, tax returns, bank statements, benefit statements, medical or treatment records, special education records, confidential evaluations or reports.

If you’re afraid for your safety or the children’s safety, you can block out information identifying your location on the copies you file with the court and give the other party.

## 2. **Make copies.**

You'll generally need a set of copies of your completed paperwork for your own records, and one set for each other party to your case. In some counties, you also need an extra set of working copies for the judge.

If a child support prosecutor (often called "the state") is involved in your case, you'll need to serve them with a copy of everything you file in court. Make an extra copy to serve on them.

### 3. **File your original papers and schedule a hearing.**

Go to the Superior Court Clerk's office.

#### **For a regular motion for temporary orders:**

- Ask the court clerk or facilitator ([https://www.courts.wa.gov/court\\_dir/?fa=court\\_dir.facils](https://www.courts.wa.gov/court_dir/?fa=court_dir.facils)) when you can schedule a hearing on your motion. Fill out the hearing details on your Notice of Hearing, or use a local form if they have one.
- File the originals with the Superior Court Clerk. Give the clerk the originals of all your forms for filing, except ask the clerk what to do with the originals of your proposed orders. Follow the clerk's instructions.
- Ask the clerk to stamp your copies to show the date you filed the originals. Take the stamped copies back from the clerk. The clerk keeps the original.
- Deliver working copies to the judge, if required in your county.



### For an immediate restraining order:

- Tell the clerk you're filing for an immediate restraining order. Give the clerk the originals of all your forms for filing, including your proposed order. Follow the clerk's instructions to have a judge review your motion. If the judge approves your immediate restraining order, they will also set a hearing date.
- Ask the clerk to stamp your copies to show the date you filed the originals. Take the stamped copies back from the clerk. The clerk keeps the originals.
- Get certified copies of the Immediate Restraining Order to give to your school, work, or daycare, plus one for yourself. Keep a certified copy with you at all times.
- Deliver working copies to the judge, if required in your county.

### 4. Serve the other party.

Serve the other party (or parties) with copies of everything you filed, and any proposed orders.

**Exception!** Don't serve a copy of the Law Enforcement and Confidential Information form, if you have one of those.

Most counties require service **at least 14 days before a hearing**. Ask the clerk if your county's deadline is different.

### For a regular motion for temporary orders:

- If the other party has a lawyer, serve the lawyer instead.

- You can serve the papers yourself, but it is better to have someone else do it. Ask an adult friend or relative to do it for you.
- You can serve by hand delivery or first class mail. You can only serve by email or fax if the other party has put in writing that they agree to accept legal papers for this case in that way. Follow the rules to serve papers after a case starts. Whoever serves the papers must sign Proof of Mailing or Hand Delivery.

**For an immediate restraining order:**

- Ask the clerk if law enforcement will serve your paperwork for free. Make sure they'll serve **all** your paperwork, not just the immediate restraining order. If not, you must arrange to have someone else personally serve the papers on the other party. Follow the same rules for personal service as if you were starting a new case. Have the server sign Proof of Personal Service.
- If the other party has a lawyer, it's usually a good idea to send an extra copy of the papers to the lawyer. You must still have the other party personally served unless the lawyer agrees to accept service for their client.

File the completed proof of service with the court clerk, or bring it with you to your hearing. Keep a copy for your records.

**5. Review any response. Reply if needed and allowed in your county.**

The other party must give you a copy of any response they file. You don't have to reply, but you may want to if they bring up new issues or say things that aren't true.

Ask the court clerk or facilitator

([https://www.courts.wa.gov/court\\_dir/?fa=court\\_dir.facils](https://www.courts.wa.gov/court_dir/?fa=court_dir.facils)), if your county has one, if replies are allowed in your county and, if so, when they are due. If allowed, you can file a declaration from yourself or others replying to the other party's response. Limit your reply to addressing issues in the other party's response. Serve a copy of your reply on the other party by the deadline. Deliver working copies to the judge if required in your county.

6. **Confirm your hearing, if needed.** In some counties, you must contact the clerk's office to confirm that you want your hearing to happen on the day it is scheduled. If you don't confirm by the deadline, **your hearing will be canceled**. Ask the court clerk for instructions.
7. **Go to your hearing.** Read chapter 4 for how to get ready and what to expect at your hearing.
8. **Get copies of any orders the judge signs.** You need certified copies of any order with a safety restraint. Get regular copies of other orders. Ask the clerk how to get the copies you need.

It's important to follow the court orders. If you don't, the other party may ask a judge to find you in contempt.

If you got a **temporary Restraining Order** and the restrained person didn't come to the hearing or sign the order, you may need to have them served. Read the order to see if law

enforcement will serve them or if you must do that. Follow the instructions on the Restraining Order form for service.

9. **If you disagree with the judge's decision, try to talk to a lawyer right away.**

You might want to file a motion for revision or reconsideration. You must file those motions **within 10 days** of the order you want to change.

### 3. Respond to temporary orders

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**I received a Motion for Temporary Orders or an Immediate Restraining Order from the other party in my family law case. Do I have to respond?**

**Yes. Don't ignore these papers.** If you don't respond on time, the other party will probably get what they're asking for.

**Find out your deadline!** Every county's motion response deadline is different. It could be anywhere from **1 week** to **1 day** before the hearing. It may not be listed on the papers you received. Contact the Superior Court Clerk's office ([https://www.courts.wa.gov/court\\_dir/?fa=court\\_dir.county](https://www.courts.wa.gov/court_dir/?fa=court_dir.county)) or Courthouse Facilitator

([https://www.courts.wa.gov/court\\_dir/?fa=court\\_dir.facils](https://www.courts.wa.gov/court_dir/?fa=court_dir.facils)) to ask what the deadline to respond is. Tell the clerk what type of motion you received and when the court hearing will be.

If you think you need more time to respond, you should still get ready for the hearing as best you can. Also contact the other party to see if they'll agree to reschedule (to continue) the hearing to a later date.

## How do I respond to temporary orders?

### 1. Read the papers you received.

- **If you received a Motion for Temporary Family Law Orders**, and you disagree with the motion, you must respond and go to the hearing.
- **If you received an Immediate Restraining Order and Hearing Notice**, you must obey it if a judge signed it. Read it carefully to see what you can and cannot do. A signed immediate restraining order will be in effect until the hearing date listed on the order, usually within 2 weeks.

If you're getting notice that the other party plans to ask the judge to sign an Immediate Restraining Order, you should try to be there if you don't want the judge to sign it.

### 2. Gather your evidence and write a declaration.

In either situation, you can write and file a declaration explaining your side. Put what you disagree with and what you want the court to do. You may also want to file a financial declaration, child support worksheets, or a proposed parenting plan if the motion involves those issues.

Answer a few questions on **Get Family and Safety Forms** to get the right forms for your situation.

You can also have other people write declarations if they have helpful information. Think carefully about what information can help show what you are telling the judge is correct, or what the other side is saying is not true.

It's important to put your response in writing. You and your witnesses won't be able to testify at your temporary orders hearing. The judge will decide based on the written documents filed and any legal argument you make at the hearing.

If you have other documents that help prove your points, you can attach them as "Exhibits" to your declaration. Organize your Exhibits so the judge can understand them. Add labels and dates to pictures, texts or emails

- **Examples to attach as Exhibits:** text messages, photos, bills, school grades, daycare records, criminal history, law enforcement records.

Some confidential documents should be filed separately under a sealed cover sheet. This keeps them out of the public court file. You must still serve them on the other party. **Examples:** paystubs, tax returns, bank statements, benefit statements, medical or treatment records, special education records, confidential evaluations or reports.

If you're afraid for your safety or the children's safety, you can block out information identifying your location on the copies you file with the court and give the other party.

If you want the judge to order something the other party's motion doesn't cover, you must file your own motion to ask for that. You should still respond to the other party's motion.

- **Example:** In a divorce if you want financial support but the other party's motion only asks for a Parenting Plan, you must file your own motion.

### 3. **Make copies.**

You'll generally need a set of copies of your completed paperwork for your own records, and one set for each other party to your case. In some courts, you also need an extra set of working copies for the judge.

If a child support prosecutor (often called "the state") is involved in your case, you'll need to serve them with a copy of

everything you file in court. Make an extra copy to serve on them.

**4. File with the court clerk by the response deadline.**

File the originals with the Superior Court Clerk. Ask the clerk to stamp your copies to show the date you filed the originals. Take the stamped copies back from the clerk. The clerk keeps the original.

Deliver working copies to the judge, if required in your county.

**5. Have copies served on the other party by the response deadline.**

If the other party has a lawyer, serve the lawyer instead.

Unless there's a restraining order against you, you can serve the papers yourself, but it is better to have someone else do it. Ask an adult friend or relative to do it for you.

You can serve by hand delivery or first class mail. You can only serve by email or fax if the other party has put in writing that they agree to accept legal papers for this case in that way. Follow the rules to serve papers after a case starts. Whoever serves the papers must sign Proof of Mailing or Hand Delivery.

**6. Go to the hearing.**

Read chapter 4 for how to get ready for and what to expect at the hearing.



**7. Get copies of any orders the judge signs.**

You need certified copies of any order with a safety restraint protecting you. Get regular copies of other orders. Ask the clerk how to get the copies you need.

It's important to follow the court orders. If you don't, the other party may ask a judge to find you in contempt.

**8. If you disagree with the judge's decision, try to talk to a lawyer right away.**

You might want to file a motion for revision or reconsideration. You must file those motions **within 10 days** of the order you want to change.

You can also make your own motion for temporary orders.

## **4. The hearing**

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### **Get ready for the hearing**

Try to go to court before the day of your hearing or check the court clerk's website to see if you can watch a hearing online. Watch how the court generally does hearings. Try to make some notes to yourself about the main points to make at your hearing.

**Organize your paperwork.** Plan to bring your set of court papers and your copies of any papers the other parties gave you in response. Bring extra copies of any proposed orders you want the judge to sign.

**Get to your hearing early.** Try to figure out before the day of the hearing how you will get there and how long it will take. Give yourself time to get through security, and to the right courtroom. If you aren't there on time, the judge could cancel the hearing, or the other party may win.

**Bring** your paperwork, a pad of paper, and a dark pen to take notes. Dress neatly. Try not to bring your children if you can make other arrangements for them. The judge usually won't let them sit in the courtroom.

**When you get to the courtroom,** tell the person in charge in the courtroom (the clerk or bailiff) your name and your case name and number. Take a seat. When the judge walks in the room, stand.

If your hearing is online, follow these [tips for phone and video hearings](#).

Your case will be one of several that are scheduled for the same time on the court calendar (called a docket). Listen to the judge and wait for them to call your name. When they call your name, tell the court you are present. Stay in court until they call your case for hearing.

## **When your case is called**

In most cases, the judge will have read your papers before the hearing. The judge will make a decision based on the paperwork filed by both parties in advance.

You usually won't be able to testify, have witnesses testify, or otherwise give evidence at the hearing. You'll just get to tell the judge briefly what you want and why. This means you want to prepare beforehand by making notes about the main points you want to say to the judge.

**If the other party gets a lawyer:** If another party's lawyer contacts you or shows up at a hearing, you may decide to get one yourself. If so, tell the lawyer and the judge you need to postpone (continue) the hearing. The lawyer may ask you to sign some documents. **Don't sign anything you don't understand.**

If the other party shows up at the hearing, each of you will get to tell your side of the case. Stand while speaking. Tell the judge briefly what you want and why. Try to keep your argument short. Only outline your main points. You may have as little as 5 minutes to speak. Don't repeat everything in your papers. If you brought proposed orders, ask permission to hand them up to the judge.

If the judge asks you a question, try to answer it directly. **Don't interrupt the judge.**

**If the other party doesn't show up,** the judge may ask for your proof of service. Bring a copy of that to show the judge. Ask the judge to sign your proposed orders.

If you couldn't serve the other party in time, or you don't have proof of service, ask the judge to reschedule your hearing.

## Hearing the judge's decision

After the judge has heard both sides, the judge decides on the requests. Listen carefully. Make notes. Usually, the judge gives their decision out loud, then it must be put in writing in a court order.

It's best to bring **proposed orders** so the judge can sign them at your hearing. If no one brought proposed orders, the judge may tell you, the other party, or the other party's lawyer to write the orders and come back later for the judge to sign. The judge could schedule another hearing in a week or two just for signing orders.

If the other party prepared the orders, read them carefully. Make sure they say what the judge said. If you're not sure, **don't sign the orders**. Ask to go back before the judge to make sure the order says what the judge said.

**If the other party didn't show up for the hearing**, send them copies of the court orders. Follow the rules to serve papers *after* a case starts. If you got a Restraining Order you may need to have them personally served. Read the order to see if law enforcement will serve them or if you must do that. Follow the instructions on the Restraining Order form for service.

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