Appendix C – Ex-Parte / Temporary "Emergency Orders"

Ex-Parte/Temporary **"Emergency Orders"** for the allocation of parental rights and responsibilities or parenting time shall be issued only in **emergency** situations. The party requesting such orders shall make every good faith effort to provide opposing counsel and unrepresented parties with notice of the application to the Court for such relief.

All filings shall be supported by affidavit(s) that set forth such facts as would be admissible as evidence and that contain sufficient facts to support the claim for relief and establish that an **extreme emergency** exists. The filing party must be present at the courthouse when the motion, affidavits, and proposed ex-parte/temporary "emergency" order are presented for consideration. The Court, in its discretion, may conduct an ex-parte/temporary "emergency" hearing with the filing party.

The Court considers the following to constitute situations of **Emergency**:

1. Attempting to cause, or recklessly causing, bodily injury to the child;
2. Committing any act with respect to the child that would result in the child being an abused child (R.C.2151.031) or a neglected child (R.C.2151.03);
3. Engaging in conduct which causes, or is likely to cause, significant emotional and/or mental stress to the child.
4. Engaging in conduct which creates, or is likely to create, an environment which significantly endangers the child's physical health, or mental, moral, or emotional development.
5. The residential parent is unavailable due to extended hospitalization, incarceration, or another emergency.
6. The residential parent has abandoned the child.

For an **emergency** change of custody to be ordered, **third party corroboration of irreparable harm or emergency is required.** Such information would include, but is not limited to, statements from law enforcement or a children services agency.

Hearings under this section may be conducted in camera, however the statement of the movant shall be **on the record**.

The Court **may not consider** a proposed ex-parte/temporary **"emergency order"** that modifies custody and/or visitation unless all of the following points are addressed in the affidavit(s) in support of the proposed order:

1. Whether the other party was provided prior notice of the filing party's intent to request an ex-parte/temporary "emergency order", and if prior notice was not provided, the reason(s) for not providing notice. If the filing party knows, or has reason to believe, that the opposing party is represented by counsel, or has been represented by counsel within thirty (30) days immediately preceding the filing of the post-decree motion, then notice of the filing party's intent to seek an ex-parte/temporary "emergency order" shall be provided to that attorney in writing; and
2. If the filing party does not believe parenting time would be appropriate, or that an order of supervised parenting time would be appropriate, then the affidavit shall include sufficient facts to support a no-parenting time, or supervised parenting time order. (The Court will not consider a proposed ex-parte/temporary "emergency" order that does not address the issue of parenting time, child support, and health care insurance), and
3. If the children are school age, and if the filing party resides in a school district other than the opposing party's school district, then the affidavit shall recite that fact. If the filing party is unable to maintain the current school placement for the children, he/she shall explain the reason(s) why in the affidavit; and
4. Any party obtaining an ex-parte/temporary "emergency order" of temporary custody shall obtain physical custody of the child(ren) in the least confrontational manner possible and shall minimize any stress to the child(ren).

A party may submit to the Court a motion, affidavits in support and proposed order requesting ex- parte relief, in the absence of situations of emergency with respect to children where:

1. A child is about to suffer irreparable harm, including but not limited to, physical abuse, bodily injury, or domestic violence in the other party's household;
2. A residential parent is unavailable due to extended hospitalization or another emergency;
3. A residential parent is about to move out of the jurisdiction of this Court.

Where ex-parte relief is granted, and at the discretion of the Court, a de novo or review hearing shall be set within ten days before either the Judge or Magistrate of record. The ex-parte/temporary "emergency" order shall remain in full force and effect until that hearing. Hearings both for Probable Cause to grant requests for ex-parte orders and for review of ex-parte orders shall take preference on the docket as to scheduling.

If a motion requesting emergency orders is filed but no orders are issued on an ex parte basis, a hearing will be set within 30 days.

The record of the hearing on the ex-parte order shall be provided upon request and the posting of reasonable costs therefore, and the Court shall expedite the production of such record when requested for purposes of the filing of responsive pleadings or preparation for de novo hearing.

The Court may issue temporary orders which restrict the removal of a child from the jurisdiction of the Court upon the filing of an ex-parte Motion.

IN THE COURT OF COMMON PLEAS
JUVENILE DIVISION
COSHOCTON COUNTY, OHIO

Plaintiff	Case No.	
Street Address		
City, State and Zip Code	Judge	**JASON W. GIVEN**
vs.	Magistrate	**LISA M. CHRISTENSEN**
Defendant		
Street Address		
City, State and Zip Code		
and		
Defendant		
Street Address		
City, State and Zip Code		

VERIFIED MOTION FOR TEMPORARY ORDERS EX PARTE

Now comes _____, and moves this Court for an Order designating him/her as the temporary, residential parent and legal custodian of the minor child:

Child's Name	**Date of Birth**

ex parte, for the reasons set forth in the Memorandum below.

Memorandum

Attorney or Self Represented Party Signature

Printed Name

Address

City, State, Zip

Phone Number

Fax Number

E-mail

Supreme Court Reg No. (if any)

OATH OR AFFIRMATION

[Do Not Sign Until Notary is Present]

I, (print name) _____ , swear or affirm that I have read this Affidavit and, to the best of my knowledge and belief, the facts and information stated in this Affidavit are true, accurate, and complete. I understand that if I do not tell the truth, I may be subject to penalties for perjury.

Your signature

STATE OF _____)
) **SS**
COUNTY OF _____)

Sworn to or affirmed before me by _____ this _____ day of _____, _____.

Notary Public

(Affix seal here)

Printed Name of Notary Public

Commission Expiration Date: _____