

TITLE IV

Chapter: 38 Chapter Title: CUSTODY AND VISITATION ORDERS

Rule No: 38.1

Ex Parte Custody Orders

**1st Judicial District
Court
Parish of Caddo**

EXHIBIT D. AFFIDAVIT TO BE ATTACHED TO PETITIONS SEEKING EX PARTE PROVISIONAL CUSTODY AWARDS PRIOR TO HEARINGS FOR TEMPORARY CUSTODY (INITIAL FIXINGS ONLY)

Adopted effective
Jan. 1, 1994.

STATE OF LOUISIANA

PARISH OF CADDO

BEFORE ME, the undersigned authority, personally appeared: _____, who being duly sworn, stated under oath that:

(1) I have read the foregoing petition and all facts contained therein are true and correct.

(2) My spouse and I physically separated on _____.

(3) Immediately prior to separation, my spouse and I resided together at _____.

(4) For the last six (6) months, the child/children has/have resided with _____ at _____.

(5) The child/children is/are presently in my physical custody and has/have been since _____.

(6) I obtained the child/children in the following manner (describe where, when and how obtained, and other special circumstances): _____.

(7) I desire provisional custody of the child/children for the following reasons: _____.

(8) To my knowledge, there are no other custody orders in existence.

(9) I agree to my child/children's temporary visitation with my spouse as follows: _____.

-or-

(9) I do not agree to a temporary visitation arrangement for the following reasons:

Affiant

SWORN TO AND SUBSCRIBED before me, Notary Public, at _____, Louisiana, on this the ____ day of _____, 20 ____.

Notary Public

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Ex Parte Custody Orders

**4th Judicial District
Court
Parishes of
Morehouse and
Ouachita**

Adopted April 7,
2009, effective
January 1, 2010

A. All pleadings seeking an ex parte order for temporary custody of children must strictly comply with the requirements of L.C.C.P. Art. 3945; and must be accompanied by a separate affidavit of the party seeking custody, setting forth all the facts surrounding when, where, how and under what circumstances physical custody of the child was obtained, and why an ex parte order for temporary custody is being sought. Said pleadings shall also refer to any prior or ongoing actions by the State of Louisiana Child Protective Services, if known, involving the same parties, even if with different children.

B. In all cases in which there has been no prior award of custody, the pleadings must first be presented to the Clerk of Court for filing and allotment to a Section, if no allotment has been made previously. Once the case has been allotted to a section, then the order must be presented to that judge for signing.

C. If custody has been awarded, an ex parte order to change custody must be presented to the judge who signed the original custody order, unless the custody order was obtained through a proceeding in motion hour and was not signed by the judge to whom the case was allotted. No ex parte order modifying a previous custody award shall be considered unless said order is necessary to protect the children from a clear and present danger of abuse and/or neglect, or unless immediate and irreparable injury is likely to result to the children if an order is not granted.

D. When presenting an order to a judge containing a request for an ex parte custody award in an existing record, the attorney shall make arrangements with the Clerk of Court to obtain the record for the judge's review.

**14th Judicial District
Court
Parish of Calcasieu**

To view the current Title IV Rules of the 14th JDC, click here
<http://www.lasc.org/rules/dist.ct/14thJDCTABLETITILEIV.PDF>

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Chapter: 38 Chapter Title: CUSTODY AND VISITATION ORDERS

Rule No: 38.1

Ex Parte Custody Orders

**15th Judicial District
Court
Parishes of Acadia,
Lafayette and
Vermilion**

As Amended October
31, 2007

Section A. All requests for ex parte child custody must be pled in accordance with one of the following statutes:

- (a) La. R.S. 46:2131 et seq., Domestic Abuse Assistance Act;
- (b) La. R.S. 9:361, 363, 364, Post Separation Family Violence Relief Act;
- (c) La. C.C.P. Art. 3945, Incidental Order of Child Custody;
- (d) La. Ch. Code 1564, et seq., Domestic Abuse Assistance Act; or
- (e) Any other statute expressly permitting such relief.

Section B. If an ex parte change of custody order is sought when a prior legal custody order exists, the suit record must accompany the application. If a prior application was sought, reference should be made to such an order; to what Judge, and what order or decision was made thereon. Orders of ex parte custody and visitation shall be given no weight at merits hearing on child custody or visitation.

Section C. La. C.C.P. Art. 3945. When there is no prior legal custody order, ex parte orders granting temporary custody shall not be signed unless the application complies with Louisiana Code of Civil Procedure Art. 3945. The petitioner, must by affidavit or verified petition, set out in detail all the facts that establish why immediate and irreparable injury will result to the child; when, where, how, and under what circumstances he or she has obtained the physical custody of the child and why he/she is requesting legal custody, or, if not in their physical custody, why they feel they should be entitled to it. If represented by counsel, the application must be accompanied by counsel's certificate. All applications for ex parte custody shall be accompanied by the Mandatory Affidavit for Child Custody/Visitation Matters set forth in Appendix 3(A).

Section D. If an ex parte change of custody order is sought when a prior legal custody order exists, the suit record must accompany the application. If a prior application was sought, reference should be made to such an order; to what Judge, and what order or decision was made thereon. If new facts exist, they should be stated and brought to the attention of the court. In addition to the certificate and/or affidavit required in Section A above, there must be at least one (1) non-party affidavit attesting to the facts in support of the ex parte modification order.

Section E. Any Order granting temporary ex parte custody shall contain a provision which prohibits both parents (parties) from changing the child's residence from the jurisdiction of the court.

Section F. The petition shall provide for a Rule to Show Cause in the proper division and except for good cause shown or where prohibited by law, the application must provide for visitation substantially in compliance with La. C.C.P. art. 3945.

Section G. The provisions of this Rule do not apply to any order of custody of a child requested in a verified petition alleging the applicability of the Domestic Assistance Act R.S. 46:2131 et seq. Children's Code Article 1564 et seq. or the Post Separation Family Violence Relief Act, R.S. 9:361 et seq.

Section H. On the motion of a party, or on its own motion, the Court may impose appropriate sanctions pursuant to La. C.C.P. art. 863D for certifications that are not based in good faith.

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Ex Parte Custody Orders

**21st Judicial District
Court
Parishes of
Livingston, St.
Helena and
Tangipahoa**

Amended effective
November 30, 2011

Ex parte custody orders shall comply with Louisiana Code of Civil Procedure Article 3945, and a certification by the clerk of court that no contrary pleading/order has been filed within the past thirty (30) days.

**22nd Judicial District
Court
Parishes of St.
Tammany and
Washington**

Adopted effective
April 2, 2009;
amended eff. Aug.
23, 2010; amended
effective October 1,
2012; amended
effective April 17,
2013.

A. If an ex parte change of custody order is sought when a prior legal custody filing exists, the mover or their attorney must reference in their pleading any prior filings in the parish in which the order is sought. If prior filings have been filed outside the parish of the current filing, the mover or their attorney must attach a copy of all pleadings and orders concerning the issues. If a prior application for ex parte custody was sought in connection with the allegations, reference is to be made to such a pleading in the application, which identifies the Judge to whom the prior application or order was submitted, and which must state the order or decision rendered thereon.

B. Each ex parte application must be accompanied by Forms H and I (Appendix Forms H and I) before an order will be considered.

**23rd Judicial District
Court
Parishes of
Ascension,
Assumption and St.
James**

Adopted effective
Jan. 1, 1998.

RULE XVII. DIVORCE CASES

In all cases where there has been no prior award of custody, no ex parte custody order will be signed, unless the mover attaches to the petition for ex parte custody an affidavit in accordance with Appendix B. The court may or may not grant the application for ex parte custody.

If custody has been awarded, an ex parte order to change custody shall be presented only to the judge who signed the original custody order. No ex parte order changing a previous custody award shall be considered unless an ex parte order is necessary to protect the child or children from the clear and present danger of abuse, neglect or other seriously detrimental conditions.

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23rd Judicial District
Court

Parishes of
Ascension,
Assumption and St.
James

Adopted effective
Jan. 1, 1998

APPENDIX B

Affidavit to be attached to petitions seeking ex parte custody awards prior to hearings for temporary custody (Initial fixings only).

STATE OF LOUISIANA

PARISH OF ASCENSION

BEFORE ME, the undersigned authority, personally, appeared, _____, who being duly sworn, stated under oath that:

1. I have read the foregoing petition and all facts contained therein are true and correct.

2. My spouse and I physically separated on _____.

3. Immediately prior to separation, my spouse and I resided together at _____.

4. For the last six (6) months the child(ren) have resided with _____, at
_____.

5. The child(ren) are presently in the physical custody of _____, and have been since
_____.

6. I/he/she obtained them in the following manner: (describe where, when and how obtained, and other special circumstances.)

7. I desire temporary custody of the child(ren) for the following reasons:

8. To my knowledge, there are no other custody orders in existence. (If such do exist, must comply with ex parte change rule)

9. I agree to my child(ren)'s temporary visitation with my spouse every other weekend from 6:00 p.m. Friday to 6:00 p.m. Sunday.

Or

I do not agree to a temporary visitation arrangement for the following reasons:

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10. I certify that efforts have been made to give the adverse party reasonable notice of the date and time such order is being presented to the court or that notice should not be required for the following reasons:

11. I fully understand that if I am not telling the truth in this affidavit, I may be charged with perjury and tried in a criminal proceeding. If I am found guilty, I can be imprisoned for five (5) years or fined up to \$1,000.00 or both.

Signature

**24th Judicial District
Court
Parish of Jefferson**

Revised effective
May 25, 2005;
revised effective
January 1, 2007

A. An ex parte order of provisional/temporary custody of a minor child shall not be granted unless it complies with all provisions of La. C.C.P. Art. 3945.

B. All ex parte applications for immediate provisional/temporary custody and visitation rights shall be pled under one of the following statutes:

1. La. R.S. 46:2131 et seq., Domestic Abuse Assistance Act;
2. La. R.S. 9:361, 363, 364, Post Separation Family Violence Relief Act;
3. La. R.S. 9:372;
4. La. C.C.P. Art. 3601, et seq.;
5. La. C.C.P. Art. 3945.

C. All pleadings seeking an ex parte order for temporary/provisional custody shall be assigned to a domestic commissioner and a district judge and shall be set and heard in conformity with 24th J.D.C. Domestic Rule 23.0 (D) and Rule 24.0 (A) (1) and (2).

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**28th Judicial District
Court**

RULE 38.1 EX PARTE CUSTODY ORDERS

Parish of LaSalle

(a) All applications for ex parte custody orders (except domestic violence protection orders) shall comply strictly with the provisions of La. C.C.P. Art. 3945. Specific facts and not merely conclusions must be set forth. Applicant's attorney's certification must be set forth in a separate document to be filed.

Adopted effective
March 31, 2001.

(b) All civil warrants for delivery of children for custody or visitation shall include a specific reference to the date of the order upon which it is based as well as plans for the time of execution of the civil warrant.

**31st Judicial District
Court**

Rule XVII, RULE XVII. DOMESTIC RELATIONS PROCEEDINGS; MEDIATION

**Parish of Jefferson
Davis**

Section 1. All petitions seeking ex parte order for provisional custody of children shall be accompanied by a separate affidavit of the party seeking custody setting forth how long the child or children have been in the petitioner's custody and in what manner the physical custody was obtained.

**Family Court
For the Parish of
East Baton Rouge**

To view the current Title IV Rules of East Baton Rouge Family Court, click here

<http://www.lasc.org/rules/dist.ct/EASTBATONROUGEFAMILYCOURTTITLEIV.PDF>
