

Rule 4 Temporary or Interim Hearings

- 4.1 Temporary Child Custody Hearings** Any party who requests temporary relief regarding custody or visitation can contact the Family Court Case Coordinator to schedule a temporary hearing that shall be conducted remotely. The Case Coordinator will issue a date for the remote hearing set within 15-45 days, whenever possible, from the request for the remote hearing. The moving party shall serve a Notice of Remote Hearing on all other parties. The parties shall comply with the Guidelines for Remote Hearings as adopted by this Court.
- 4.2 Temporary Hearings by Affidavit** Any party who requests temporary relief regarding child support or postseparation support can contact the Family Court Case Coordinator to schedule a temporary hearing that shall be conducted by affidavit. The Case Coordinator will issue a date for the Affidavit Hearing set within 30 - 45 days, whenever possible, from the request for the affidavit hearing. The moving party shall serve notice of this date on all parties along with a copy of this Rule.
- 4.3 Affidavits** For hearings regarding temporary child support, the parties must comply with the exchange of income and insurance information outlined in Rule 6. For hearings regarding postseparation support, the parties must comply with the mandatory use of the financial affidavit form and exchange of income information as outlined in Rule 7. In addition, each party may submit testimony affidavits that are made on the personal knowledge of the witness, that set forth facts that would be admissible in evidence and that show the witness is competent to testify to the matters stated in the affidavit. Any supporting documents or exhibits must be attached to an affidavit that establishes a proper foundation for admissibility pursuant to the Rules of Evidence. The court will indicate in its ruling which attachments were considered or excluded from consideration.
- 4.4 Affirmation** Affidavits shall be notarized. If the Chief Justice's Emergency Directive is in place (currently through June 1), the following affirmation may be substituted for a notarized signature:
- I affirm, under the penalties for perjury, that the foregoing representations are true.*
- Signed* _____
- 4.5 Filing of Affidavits** Both parties shall file testimony affidavits and any attachments with the Clerk of Court at least 14 days prior to the scheduled hearing. Both parties shall file any rebuttal affidavits and any attachments with the Clerk of Court at least 7 days prior to the scheduled hearing. Rebuttal affidavits shall be limited to rebutting information included in the opposing party's testimony affidavit(s). Rebuttal affidavits must cite the specific portion of the testimony affidavit that is being rebutted.

- 4.6 Service of Affidavits** Testimony affidavits and any attachments shall be served on all other parties. Service may be by personal delivery, fax or mail. Testimony affidavits and any attachments may be served by email to any party that consents to be served by email. A Certificate of Service shall be filed with the Clerk of Court.
- 4.7 Arguments** Written arguments, including any objections to affidavits or attachments, shall be submitted to the Family Court Case Coordinator and served on all other parties at least 3 days prior to the scheduled hearing. Written arguments may be submitted and served by personal delivery, fax, mail or email. Written arguments shall not be filed with the Clerk of Court, but a Certificate of Service shall be filed.
- 4.8 Failure to Comply** The court, in its discretion, may decline consideration of any affidavit or argument that fails to comply with these rules or any other governing rules of procedure or evidence.
- 4.9 Supplemental Affidavits** The court, in its discretion, may request supplemental affidavits.
- 4.10 Expedited Affidavit Hearing** If both parties file and serve all affidavits and arguments earlier than the deadlines require, the parties may submit a written request to the Family Court Case Coordinator (fax, email or personal delivery) requesting that the temporary hearing by affidavit be conducted earlier than the scheduled hearing date.
- 4.11 Presence at the Affidavit Hearing** Parties and attorneys shall not be present at a temporary affidavit hearing.
- 4.12 Time Limits** Interim distribution hearings shall be limited to one hour. Temporary custody hearings shall be limited to two hours. Each party shall be allocated one-half of the time to be used for direct examination of the party's witnesses, cross-examination of the other party's witnesses, examination of affidavits, opening and closing statements. It is anticipated that most temporary hearings will conclude within these time limits because of the exchange of information between the parties before the hearing; however, this time limit may be extended in the discretion of the presiding Family Court Judge for good cause.