

## TEMPORARY HEARING INFORMATION FOR FAMILY COURT

Unless you hire a private attorney to represent you in this matter, you will be representing yourself, *pro se*, meaning without an attorney. If you do not attend any scheduled Hearings, the opposing party will be granted the relief he/she is requesting.

When you attend a Family Court Temporary Hearing keep in mind the following:

- Most importantly, be respectful and polite to everyone.
- Arrive early and be ready to wait patiently for your Hearing to take place. When you enter the building, you (and your belongings) will have to go through a metal detector and you (and your belongings) may be searched.
- Dress Appropriately. You should dress as if you are going to Church or a nice business meeting. Jeans or revealing clothes are not appropriate and the Court does not allow shorts, tank tops, or flip flops.
- Leave your electronics behind (unless needed as evidence in your case). The Court prohibits cell phones and pagers in the Courtroom. Either can be confiscated by the Court if it rings or disrupts Court.

The Temporary Hearing is not a testimony Hearing. The Judge's decision will be based on the Affidavits presented by you and the opposing party/attorney. You will not be given the opportunity to take the stand and testify at this hearing. Your story to the Judge must come through your Affidavits.

- Affidavits are sworn, written statements signed in front of a notary.
- The information contained in the Affidavits must be based on the person's first-hand knowledge and observations because hearsay is not allowed to be included in the Affidavits.
- The Affidavit(s) should be typed or neatly printed so that they can be easily read by the Judge. You will be limited to a total of eight (8) pages of Affidavits, so make sure you do not exceed this number.
- Bring copies of all relevant documents with you:
  - Signed and notarized Affidavits in support of your case (see above for Affidavit specifics), including your own Affidavit.
  - Bring the original Affidavit and two (2) additional copies of each Affidavit: the Judge gets the original Affidavit(s), a copy of each Affidavit is given to the opposing party/attorney, and you keep a copy of each Affidavit for your file.
  - If the Affidavit references a document, you should attach the document to the Affidavit and mark as an Exhibit to the Affidavit. For example, "I have had to call law enforcement four times in the last two weeks because Mr. X has shown up at my house intoxicated and threatened me. See arrest records attached hereto as Exhibits Y and Z."
  - Any documents that provide proof of service in your case, such as a signed return receipt or proof of mailing from the Post Office.
  - Copies of all pleadings (or Court papers).
  - If you have other documents that support your case, you should bring those to Court with you.

- You will also be required to present a completed and signed **Financial Declaration** at your temporary hearing. You should have the original and two copies with you when you attend the hearing.
- **Parenting Plan** (NEW 7/2012) – by Order of the Court, all parties will be required to also submit a proposed Parenting Plan when they attend the temporary hearing. The Form is available at the court’s website: [www.sccourts.org/forms/family](http://www.sccourts.org/forms/family) Bring an original and two copies as you will be required to present the original to the Judge and a copy to the other side.
- **Background Information Form** (NEW 11/2012). All parties will be required to submit a completed and signed Background Information form at the temporary hearing. This form should also be available at the court’s website (see above).

What you can expect to happen at your temporary hearing:

- You will hand over a set of your original Affidavits, Background Information form, Financial Declaration and Parenting Plan to the deputy to deliver to the Judge.
- You will provide the other party/attorney with a copy of that set at the same time.
- You should get a copy of the other party’s affidavits when he/she presents his/her affidavits to the Judge.
- The Judge will review the Affidavits and other documents. The Judge may have some questions for you and/or the other party. **Always stand up and address the Judge as “Your Honor” and answer any question he/she may have.**
- Please keep in mind, however, that the Judge may not review all paperwork that you bring because some documents are not relevant and some documents are not admissible under the *South Carolina Rules of Evidence*.
- You should review the other party’s affidavits while the Judge is reviewing the documents. You can object to an Affidavit if an Affidavit is not properly notarized or if it does not comply with the *South Carolina Rules of Court/Evidence*. To object to an Affidavit because it was not properly notarized or not notarized at all, you would stand up and state as follows:

**Excuse me, Your Honor, but I must object to \_\_\_\_’s Affidavit of \_\_\_\_ because it is not notarized as required by the Rules, and I must ask that it be struck from the record.**

The Judge will give you his/her decision on that and you sit down.

The Judge may order the appointment of a Guardian ad Litem and/or Mediator in your case.

- A **Guardian ad Litem** (GAL) may be appointed to investigate the situation if custody and/or visitation are contested.
  - Usually, the GAL will interview the parties, other individuals who may be significant in the issue of custody and/or visitation, and possibly the child(ren) depending on his/her age.
  - The GAL will report back to the Court.
  - The GAL will be awarded a fee by the Court, and usually that fee will be divided between the parties. The fees vary and depending on the particular GAL, you may be able to negotiate a payment plan.

- Mediation may be ordered, either at the Temporary Hearing or later in the case, if the parties are unable to reach an agreement.
  - Mediation involves the parties sitting down with a third party, called a mediator, who listens to both sides and helps facilitate a resolution between the parties.
  - Please keep in mind that you do not have to agree to anything at the mediation, but you do have to attempt to reach an agreement with the opposing party. If the parties are unable to reach an agreement, the matter will be taken back to the Court for the Judge to decide the outcome after a Hearing is held on the merits.
  - There is a fee to the mediation that is usually divided between the parties.

The Judge will issue an Order on a temporary basis. A temporary order is just that, an Order that only remains in place until the next hearing. If your case is dismissed by the Clerk or by agreement of the parties, then the Temporary Order goes away and is not effective any longer.

If there is an attorney on the other side, the Judge will usually ask the attorney to prepare the temporary order. However, if both parties are *pro se*, then the Judge will likely use a form order which he will complete and sign. The Order must be filed with the Clerk and you will need a certified copy from the Clerk.

Though the Order is a Temporary Order, you are still required to comply with all the provisions of the Order or you could be brought back before the Judge for contempt of Court. Contempt is willful non-compliance with the Court's Order.