

INSTRUCTIONS
Verified Motion for Ex Parte Order (Domestic Relations)
Confederated Salish & Kootenai Tribal Court

**THE FOLLOWING INFORMATION IS NOT LEGAL ADVICE AND
CANNOT REPLACE THE ADVICE OF A LAWYER OR ADVOCATE.**

These instructions provide legal information and resources only. Legal advice depends on the specific circumstances of each situation. The information contained in this document is not guaranteed to be up to date. The information cannot replace the advice of an attorney or advocate licensed to practice law. **If you choose to represent yourself, you are bound by the same rules and procedures as an attorney or advocate.**

Instructions have been developed to assist you with processing the **Verified Motion for Ex Parte Order (Domestic Relations)** case. Read the instructions first to determine which forms you may need, based on your personal circumstances, as it may not be necessary to complete all forms listed below.

GENERAL INFORMATION

- ◆ **For additional information**, please review CSKT Laws Codified (2013) and other applicable laws and ordinances at <https://csktribes.org/judicial/cskt-laws-codified>.
- ◆ **Tribal Court Forms** can be found at <http://csktcourt.org> by clicking on the “FORMS & FILINGS” tab.
- ◆ **The State Law Library** can help you find and use legal resources such as books, forms, and websites. You can visit the Law Library website at www.lawlibrary.mt.gov. Or you can contact a Reference Librarian at 1-406-444-3636 or by email at mtlawlibrary@mt.gov.
- ◆ **CSKT Tribal Defender’s Office Civil Division** offers legal assistance to Tribal members in certain civil matters. To find out if you qualify, call (406) 275-2897. <https://csktribes.org/judicial/tribal-defenders>
- ◆ **Montana Legal Services Association (MLSA)** gives free legal help to low-income people. To find out if you qualify for MLSA, call the MLSA HelpLine at 1-800-666-6899.
- ◆ **CSKT Practice Rule 13** governs *ex parte* matters. *Ex parte* is used to refer to motions for orders that can be granted without waiting for a response from the other side. Generally, these are orders that are only in place until further hearings can be held, such as a temporary parenting plan. Typically, a court will be hesitant issue an Emergency or Temporary Ex Parte Order because the court is making a decision without a response from the other party and *ex parte* motions—due to their exclusion of one party—risk violating the excluded party’s right to due process.

COMMON TERMS

- ⇒ **Petitioner:** A petitioner is someone who files an action in court. The parent that filed the original Petition for divorce or parenting plan is Petitioner. The Court does not refer to Co-Petitioner or Joint-Petitioner.
- ⇒ **Respondent:** A respondent is someone who has been filed against in court. The party that was filed against in the first action for divorce or parenting plan is the Respondent.
- ⇒ **Stipulation:** A written agreement prepared by the parties.
- ⇒ **Ex parte:** *Ex parte* is used to refer to motions for orders that can be granted without waiting for a response from the other side. Generally, these are orders that are only in place until further hearings can be held, such as a temporary parenting plan. Typically, a court will be hesitant to make an *ex parte* motion because the court is making a decision without a response from the other party and *ex parte* motions--due to their exclusion of one party--risk violating the excluded party's right to due process.
- ⇒ **Service of Process:** The official means by which a party is notified that a document has been filed against him/her and provided a copy of the document and a description of the person's rights and obligations as a party to the case.
- ⇒ **Hearing Date:** The date that Petitioner and Respondent must appear in Court.
- ⇒ **Mediation:** A confidential process whereby a trained neutral third-party assists the disputing parties to reach their own solution.
- ⇒ **Moving Party:** The Moving Party is the party who wants to enforce the current parenting plan.
- ⇒ **Non-moving Party:** The Non-moving Party is the party who does not file forms to enforce the current parenting plan.

If you do not understand this information, please contact an attorney or advocate.

FEES

A filing fee may be required when filing a **Verified Motion for Ex Parte Order**. Please check with the <http://csktcourt.org> by clicking on the "FEE SCHEDULE" tab to determine what the current fee schedule is for filing Petitions. If you cannot afford the filing fees, you may ask the Tribal Court Clerk to apply for a **Fee Waiver [TCF 0008]** and the Court will determine if you qualify.

FORMS

Please note that the forms referenced in these Instructions are available at <http://csktcourt.org> by clicking on the "FORMS & FILINGS" tab.

- [TCF 0076] DR-Motion for Ex Parte Order-Verified MOTION
- [TCF 0077] DR-Motion for Ex Parte Order-CERTIFICATE OF NOTICE
- [TCF 0078] DR- Motion for Ex Parte Order-RESPONSE

STEPS TO FILING YOUR CASE

Step 1: Complete Forms

Selecting these instructions indicates that you are planning on filing a **Verified Motion for Ex Parte Order**. Make sure that you make at least two (2) copies of all the forms you file with the Court for your own records. **Keep a copy of each form for your own records and make a copy to provide to the other party.**

The following caption needs to be completed on all forms filed:

IN THE TRIBAL COURT OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE
FLATHEAD RESERVATION, PABLO, MONTANA

| | |
|--|---|
| <input type="checkbox"/> In re the Marriage of: <input type="checkbox"/> In re the Parenting concerning: _____, Petitioner(s): _____ and Respondent(s): _____ | Cause No. _____ <i>Insert Name of Form</i> |
|--|---|

- [TCF 0076] Verified Motion for Ex Parte Order**
 - Moving Party must **complete all applicable sections on the form.**
 - Moving Party must sign this form in the presence of a Court Clerk or Notary Public.
 - Attach a copy of the current parenting plan and order.

- [TCF 0077] Verified Certificate of Notice**
 - Moving Party must **complete all applicable sections on the form.**
 - Moving Party must sign this form in the presence of a Court Clerk or Notary Public.
 - Attach a copy of the current parenting plan and order.
 - **NOTE:** Certificate of Service is in addition to Certificate of Notice to the Other Party.

Step 2: You are ready to FILE your papers with the Court

Provide the Court with the documents completed as described in Step 1 above and pay the filing fee, if applicable.

- File your original [TCF 0076] Motion and [TCF 0077] Certificate of Notice with the Clerk and pay the filing fee.

Step 3: Serve Completed Motion and Certificate of Notice to the Other Party By Either Certificate of Service or Personal Service.

NOTE: There are 2 different requirements for service depending on whether you have an ongoing case or a newly filed case.

- You must provide a copy of this [TCF 0076] Motion and [TCF 0077] Certificate of Notice to all parties to the case when you submit the Motion to the Court.
- Ongoing Case:** If you have an **ongoing domestic relations case** where Respondent has been served the Petition, then complete the **Certificate of Service portion on the [TCF 0076] Motion.** The purpose of the Certificate of Service is to notify the Court when and how you provided copies of the Motion to all parties in the case. This is very important, because the Court must have knowledge that all parties involved are aware of the motion prior to any Court action being taken.

NOTE: Certificate of Service in the Motion is in addition to Certificate of Notice to the Other Party.

- Newly Filed Case:** If you have a newly filed case, where Respondent has not been served the Petition pursuant to CSKT Practice Rule 9 then you must also serve Respondent the Motion for Ex Parte Order and Certificate of Notice to the Other Party. *See* the Instruction Packet for the case that you are starting for further instructions on how to complete service.

Step 4: Grant or Deny Motion for Ex Parte Order

- GRANT MOTION & SET HEARING:** The Court may grant an Emergency or Temporary Order based on the Motion for Ex Parte Order and set the matter for a hearing within 14 business days of issuing the Ex Parte Order. At the hearing, both parties will have the opportunity to appear and make statements and provide evidence to the Court regarding the arguments made in the Motion for Ex Parte Order and the Court will determine whether to continue the Order or not.
- DENY MOTION & SET HEARING:** The Court may find that the Motion for Ex Parte Order does not rise to the level of granting the request without the other party's participation and may deny the request for Emergency or Temporary Order. The Court may still find the request valid but not an emergency and may set the matter for a hearing within 14 business days of denying the Motion. At the hearing, both parties will have the opportunity to appear and make statements and provide evidence to the Court regarding the arguments made in the Motion for Ex Parte Order and the Court will determine whether to continue the Order or not.
- DENY MOTION & NO HEARING:** The Court may deny the request for Emergency or Temporary Order based on the Motion for Ex Parte Order and not set the matter for hearing.

Step 5: Hearing on Ex Parte Motion

- Depending on how the Court rules as explained in Step 4, the Court will set a Hearing for the Ex Parte Motion **within 14 business days of issuing the Ex Parte Order** at which time both parties will have the opportunity to appear and make statements and provide evidence to the Court.

- Newly Filed Case Requires PROOF OF SERVICE Before Hearing:** If your case is new and the Respondent has not been served the initial pleadings, like the Summons and Petition, by the hearing date, then you must file a Motion with the Court with an update on completing service and request the Court to continue the hearing for a later date until Respondent is served pursuant to CSKT Rules of Practice, Rules 9. See the Instruction Packet for the case that you are starting for further instructions on how to complete service.
 - Preparing for the Hearing**
 - Have available your stamped copies of the papers you filed with the Court.
 - Dress like you were going to an important job interview.
 - Be prepared to explain your position and answer any questions the judge might have.
 - Address the Court and staff respectfully.

If you do not understand this information, please contact an attorney or advocate.

