

New
Enforcement
Rules

IRFLP 816

IRFLP 815

IRFLP 816: Enforcement of Parenting Time

Using IRFLP 816

- Enforcing the terms of an active judgment.
- Not changing any terms of custody.
- Changes to custody are only available through a Petition to Modify.

IRFLP 816: Form of Petition

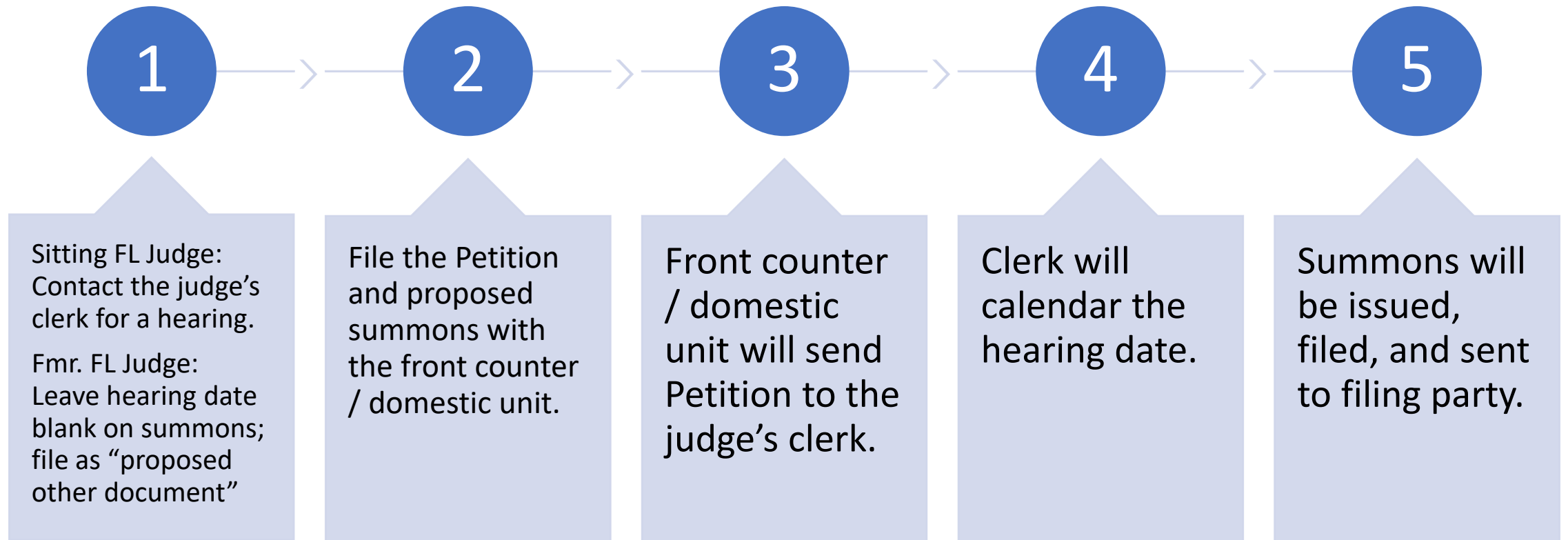


No more than 20 pages (excluding attached judgment).



Petition requirements listed in 816(b)—Read them!

IRFLP 816: Procedure



IRFLP 816: Service



Hearings will be scheduled 14-28 days after filing.



Petition and Summons must be filed and served at least 14 days before the hearing.



Hearing will be vacated if not timely served.

IRFLP 816: Service

Closed case

- Personal service as described in IRFLP 204.

Pending case

- Service according to IRFLP 205(c) – (e).
- Unless the Court orders personal service.

IRFLP 816: Response

- No more than 20 pages.
- Must be filed and served on moving party at least 7 days before hearing.
- Not a defense to assert enforcing the order is unwise or against kids' best interest

IRFLP 816: Hearing

Decided only on the petition, affidavits, and oral argument.

Unless the Court authorizes an evidentiary hearing.

Evidentiary hearings will be scheduled within a reasonable time.

IRFLP 816: Timing

- Hearing within 28 days of the Petition.
- Final disposition within 42 days, unless good cause shown for continuance.

IRFLP 816: Findings

- After a hearing, the Court will determine if a party has **failed to comply or interfered with** a parenting time order, judgment, or decree.

IRFLP 816: Custody Remedies

- The Court may issue a temporary modification of parenting time order if the Court finds it is in the best interest of the child, including:
 - Compensatory (make up) parenting time;
 - Modification of transportation and exchange arrangements; and
 - Clarification of terms to effectuate the order.

IRFLP 816: Additional Remedies

- Economic Sanctions (monetary compensation for costs resulting from failure to appear for parenting time).
- Suspension of license.
- Appointment of parenting coordinator.
- Awarding reasonable attorney fees to the prevailing party—if authorized by contract or statute.
- Any other appropriate remedy.

IRFLP 816: Interaction With Contempt (Judge Schou's Comments)

- Expressly distinct from contempt proceedings.
- **BUT** how does the Court reconcile preserving alleged contemnor's 5th and 6th Amendment rights with the expedited proceedings required by 816?



IRFLP 815 – Enforcement of Anything Other than Parenting Time

IRFLP 815: Procedure

May be expedited.

Filing process similar to IRFLP 816.

Service process the same as IRFLP 816

No set timelines for adjudication.
(Unlike IRFLP 816).

IRFLP 815: Remedies

- If a party fails to comply or interferes with the order, judgment, or decree, the Court may:
 - Order costs associated with the denial or interference;
 - Enter a money judgment accruing interest;
 - Order compliance with the term by a specified time;
 - Clarify the terms to effectuate the order, judgment, or decree;
 - Award reasonable attorney fees to the prevailing party—if authorized by contract or statute; and
 - Any other appropriate remedy.

Contempt

- Incorporates IRCP 75 and I.C. § 7-610.
- Punishment for failing to comply with an order.
 - Jail
 - Fine (paid to the Court)
 - Attorney fees
- Respondent must be arraigned.
- Respondent has the right to appointed counsel.

Conclusion

- **IRFLP 815** – orders for money, property, and legal custody.
- **IRFLP 816** – specific violations of parenting time.
- **Contempt** – Punishment through jail or fine.