

# **QUESTIONS AND ANSWERS ABOUT FILING**

## **A MOTION FOR CONTEMPT**

### ***In Domestic Violence Court***

If you believe that your Order of Protection has been violated and you want the Court's assistance, you will need to file a "**MOTION FOR CONTEMPT**," which asks the judge to hold the other person (the Respondent) in contempt of court for violating a valid court order.

### **WHERE DO I GO TO FILE A MOTION FOR CONTEMPT?**

You should go to the Adult Abuse Office of the St. Louis County Courthouse, located at 105 S. Central Ave., Clayton, MO 63105. This Office is located on the street level of the courthouse (same floor where you enter/go through security) and the phone number is (314) 615-8086.

You can also get the forms online at [www.stlouisco.com/circuitcourt](http://www.stlouisco.com/circuitcourt). Click on "Family Court" and then select "Domestic Violence Court." Select "Motion for Contempt Forms." You will still need to come to the courthouse to file the forms, even if you obtain them online.

### **HOW DO I DECIDE WHICH TYPE OF CONTEMPT MOTION TO FILE?**

There are different contempt motions for different types of alleged violations. You should review the types of violations below and then select the appropriate motion. You can then obtain the appropriate form online or from the Adult Abuse Office clerk:

**Motion #1:** **Indirect Criminal Contempt.** For abusing, threatening, stalking, entering onto property, unlawful contacting and/or communicating. **NOTE:** *You may also consider reporting these violations to the local police authorities.*

**Motion #2:** **Civil Contempt.** For not paying child support, maintenance/spousal support, rent/mortgage payments, medical bills and/or any other financial obligation as ordered by the court in your **FULL ORDER OF PROTECTION.**

**For any other violation(s), you should seek private counsel to file the appropriate motion(s) in Family Court.**

### **WHO CAN HELP ME?**

Advocates may be available free of charge in the Adult Abuse Office to assist you in completing the necessary forms. If no advocate is present, the Adult Abuse Office employees will inform you of when the advocates are expected to be present later that day or week. You may want to call ahead of time to be sure that an advocate is scheduled to be there when you come in to file.

### **WHAT SHOULD I BRING WITH ME?**

You should bring a copy of your full Order of Protection, or at least have your Order of Protection case number. If you have misplaced your copy of the Order of Protection, the Adult Abuse Office staff will be able to get the necessary information.

Since the Respondent must be served with a copy of the Motion for Contempt, you should try to have at least his/her current address and phone number (home, work or both) when you arrive at the Adult Abuse Office. The more information about where the Respondent can be found, the more likely the Sheriff's Office will be able to serve him/her.

For the contempt hearing, if you have police reports, medical reports, photographs or other documents which will support your claim(s), please bring them with you.

## **HOW LONG WILL I NEED TO WAIT?**

If you have completed the contempt form before your arrival at the courthouse, the process will be faster. (**NOTE:** You *must* sign the forms in the presence of a court clerk or notary public, who will have you swear under oath that the information in your motion is true. A clerk who can give the oath is always available at the courthouse).

When you submit your Motion for Contempt, you will also leave a self-addressed envelope with the Adult Abuse Office staff. The staff will then mail a copy of the judge's decision and upcoming court date to you.

## **WHAT WILL I RECEIVE FROM THE JUDGE?**

When you receive a copy of the judge's decision in the mail, you will find out whether or not the judge has decided to grant your Motion for Contempt and schedule it for a hearing.

If the judge approves your request for a hearing on your Motion for Contempt, you will receive a signed "**Order to Show Cause/Notice of Hearing.**" This order informs the Respondent that you have made claims that s/he has violated the full Order of Protection. The order also informs the Respondent that s/he must appear in court to face indirect criminal contempt or civil contempt proceedings.

**The order includes a date and time for both parties to appear.** You should be in court at that time, so that the matter will proceed.

## **WHAT IF THE JUDGE REFUSES MY REQUEST FOR A HEARING ON MY MOTION FOR CONTEMPT?**

You may consider filing a separate motion for the judge to reconsider his/her decision. You are strongly encouraged to get an attorney to assist you at this time.

## **WHEN WILL THE RESPONDENT KNOW THAT I FILED A CONTEMPT MOTION?**

After the judge issues the Order/Notice of Hearing or Order to Show Cause, the Sheriff's Office or a Special Process Server will try to serve the Respondent with a copy of your Motion and the order. The matter cannot proceed to a hearing until the Respondent has been served.

## **DO I NEED A LAWYER FOR THE HEARING?**

For Indirect Criminal Contempt proceedings, a Special Prosecuting Attorney will be appointed to prosecute your contempt case; however, this attorney represents the state of Missouri and not necessarily you. For that reason, you may want to consider getting an attorney, but it is not required for you to do so. The Respondent has a right to have an attorney at the hearing. S/he may choose to hire a private attorney, but one will also be available to her/him through the court.

For Civil Contempt proceedings, there will be no prosecuting attorney. As with Indirect Criminal Contempt proceedings, you may want to consider getting an attorney; however, it is not necessary for you to do so.

## **WHAT HAPPENS IN COURT?**

If the Respondent has been served and appears, the first court setting might *not* result in a full hearing. The judge will ensure that the parties have access to legal representation for the full hearing.

If the Respondent has been served but fails to appear at the first setting, the judge may take some evidence at that time. For this reason, you should bring all of your witnesses and documents (if any) to the first court setting.

At the contempt hearing, the judge will decide whether or not to hold the Respondent in contempt of court for violating the original Order of Protection. The judge will typically hear testimony from you and any witnesses that you choose to present. The judge will also possibly review any documents (such as police reports, medical reports, photographs, etc...) that you want to present. When your case is finished, the Respondent has the right to present testimony and evidence to the judge. Following the hearing, the judge will decide whether or not your motion should be granted.

### **WHAT HAPPENS I FAIL TO APPEAR AT THE HEARING?**

It is very important that you appear in court. Your failure to appear might result in the judge dismissing your Motion for Contempt (without prejudice).

### **WHAT HAPPENS IF THE JUDGE FINDS THE RESPONDENT TO BE IN CONTEMPT?**

The judge can grant whatever relief he/she believes is in the best interest of justice. The judge might sentence the Respondent to jail time in the St. Louis County Jail, order the Respondent to enroll in additional programming, place the Respondent on house arrest, impose a monetary fine against the Respondent and/or a combination of these things.