

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 7900 Carondelet Ave, Clayton, MO 63105. This Office is located on the first floor of the courthouse (one floor above ground level) and the phone number is (314) 615-8086. Contempt filing hours are Tuesdays through Fridays from 8:00 a.m. to 5:00 p.m.

You can also get the forms online at www.stlouisco.com/circuitcourt. Click on "Family Court" and then select "Domestic Violence Court." Next, select "Motion for Contempt Forms." You will still need to come to the courthouse to file the forms, even if you get 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 list of violations (below) and then select the appropriate motion. (You should ask for them by the listed number.) You can then obtain the appropriate form online or from the Adult Abuse Office clerk.

- Motion #1:** For abusing, threatening, stalking, entering on property, unlawful contacting or communicating. **NOTE:** *You should also consider reporting these violations to the local police authorities.*
- Motion #2:** For not completing a Batterer Intervention Program (BIP) which the judge has previously ordered to be completed. **NOTE:** *For such violations, the court – not the Petitioner – typically starts the contempt process. To determine whether or not the Respondent is in compliance with the BIP order, you may call Diana Kinder-Beasley, Batterer Compliance Specialist, at (314) 615-0365. You may also appear at any and all of the compliance hearings held before the judge.*
- Motion #3:** For not paying child support, maintenance (spousal support), rent, mortgage payments, or any other financial obligation as ordered by the court in a 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?

Volunteer legal advocates may be available – free of charge – at 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 WHEN I FILE MY CONTEMPT MOTION?

You should bring a copy of the full Order of Protection – or at least have the court case number. Also, because the Respondent must be served with a copy of the contempt motion, 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. (Thus, addresses and phone numbers of the Respondent's parents, siblings and close friends could be very helpful.) Please bring with you the Respondent's license plate number (and the make and color of his/her automobile) and a photograph of him/her, if you have this information/documentation.

HOW LONG WILL I NEED TO WAIT?

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

After you submit the papers, you can ask the Adult Abuse Office personnel for the best time to return. You may need to leave your phone number with the Adult Abuse Office, in case the clerk or judge has any questions.

To avoid having to return to the courthouse, you can 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 return to the courthouse (or 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 approve your motion 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/ Notice of Hearing**" (for #1 Motions) or "**Order to Show Cause**" (for #3 Motions). The order informs the Respondent that you have made claims that the Respondent has violated the full Order of Protection. The order also informs the Respondent that he or she must appear in court to face criminal 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 can file 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?

Within days, possibly within hours, 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.

WHAT HAPPENS IN COURT?

If the Respondent appears, the first court setting may *not* be a full hearing; it will be a scheduling conference. The judge will use that first court date to choose a hearing date and to notify all of the parties involved. The judge will also make sure that the parties have legal representation for the full hearing, if they are requesting counsel.

If the Respondent fails to appear at the first setting, the judge will hear some evidence at that time at a Probable Cause Hearing. 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 SHOULD I BRING WITH ME TO THE COURT HEARING?

For the actual hearing, if you have police reports, medical reports, photographs, phone records, text messages, e-mails or other documents which will support your claim, please bring them with you. If you have misplaced your copy of the Order of Protection, the Adult Abuse Office staff will be able to get the necessary information.

DO I NEED A LAWYER FOR THE HEARING?

For Motion #1 proceedings, a special prosecuting attorney will be appointed to prosecute your case. This attorney, however, will represent the State of Missouri, not necessarily you. For that reason, you may want to consider obtaining legal counsel; however, you certainly do not need to do so. The Respondent has a right to have an attorney at the hearing.

For Motion #3 proceedings, there will be no prosecuting attorney. As with #1 proceedings, you may want to consider obtaining legal counsel. However, you do not need to do so.

WHAT HAPPENS I FAIL TO APPEAR AT THE HEARING?

It is very important that you appear in court. Your failure to appear would leave the judge with no other choice but to dismiss your motion.

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 can place the Respondent in the St. Louis County Jail, impose a monetary fine against the Respondent or order a combination of both.