

How to File Contempt Charges Without a Lawyer

Although the phrase 'file charges' generally relates to criminal cases, judges can hold people in contempt for not following a previous court order. In the family law context, if one parent isn't paying child support or providing other...

Drafting Your Motion



Look for forms. Many courts have fill-in-the-blank forms that you can use for your complaint or motion in this context.

1. If you can't find a specific motion for a motion for contempt, you may be able to find a blank motion form that you can use to make sure your motion is formatted correctly.
2. Some courts also may have instructions that walk you through the process of filing your motion step by step.^[2]

2.



Consider consulting an attorney. Although you don't need an attorney to file a motion for contempt, an experienced family law attorney may be able to best protect your rights and the rights of your children.

1. If you're worried about your ability to afford an attorney, you might check with legal services in your area to see if you qualify for free or reduced-fee assistance.^[3]
2. Additionally, you may be able to find an attorney who is willing to take a lower fee simply to look over the documents you've completed before you file them and make sure everything is in order.
3. You also may be able to get help from your local department of child support enforcement.^[4]

3.



Gather information. If you have any documents that support your allegations, you may want to attach them to your motion.

1. Some courts may require you to attach the original order to your motion. The court's clerk can tell you if this is required for your case.

4.



Fill out the caption for your motion. The caption of your motion generally will be the same as the caption in the original case.

1. You must use the same docket number as your original case. If you don't know this number, you can find it at the top of the original order that is the subject of your motion for contempt.^[5]
2. The court's location and names of the parties also will be the same as they were in the original case.^[6]

5.



Write the body of your motion. The body of your motion tells the judge which orders the other parent isn't following.^[7]

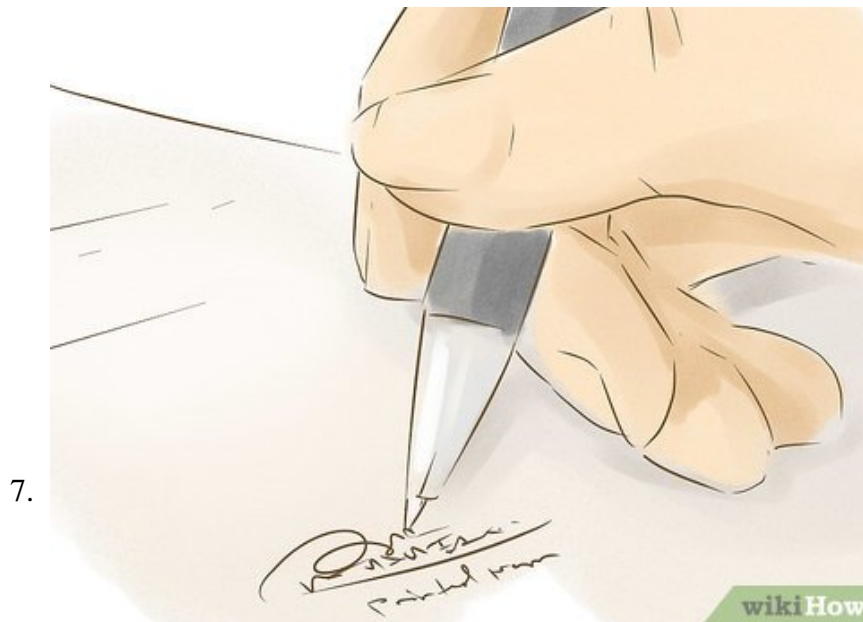
1. You must indicate what the original order required the other parent to do, and then describe in detail how the other parent has disobeyed that order.^[8] For example, if the other parent is supposed to pay you \$200 a week in child support, and has not done so for three weeks, you should list the requirements of the order and then provide the dates that child support was due and wasn't paid.

2. List each violation separately, and then in the other section list the reasons you believe the other parent has violated the court order in the same order as you listed the violations.^[9]



Fill out any other required forms. If you don't have an attorney, some courts require you to file an appearance along with your motion.^[10]

1. An appearance introduces you to the court and provides your address where you can accept court papers related to your case.^[11]
2. Depending on the court, you probably will be required to fill out a summons or certificate of service. You also may need to have a notice of hearing ready to be completed by the clerk, although some courts combine these documents into one form.^[12]
3. The summons tells the other parent to appear in court. The certificate of service tells the court how you plan to have the papers delivered to the other parent so he or she has notice of the hearing.^[13]
4. Some courts also require you to include a summary sheet or cover sheet that provides basic information about the case and the documents you're filing.^[14]



Sign your documents. Depending on the court's rules, you may need to sign your motion or other forms in the presence of a notary.^[15]

1. After you've signed everything, make sure you've made at least two copies of everything you plan to file with the court. You'll need one copy to have served on the other parent, and one copy for your own records. The clerk will keep the originals for the court's files.

Filing Your Motion



Take your documents to the clerk's office. When you've completed all the necessary forms, take them to the clerk of the same court that issued the original order.^[16]

1. Since you're asking the judge to penalize the other parent for disobeying the order, your motion generally will be heard by the same judge who issued the initial order.^[17]
2. In some states such as Maine you must get the judge's approval to file your motion before you can proceed and serve the other parent.^[18] If this step is required for your case, the clerk of court will let you know.
3. In some courts you don't have to pay a filing fee to file a motion for contempt. However, in others you do.^[19] The fees will vary among jurisdictions, but typically should be less than \$100.^[20]
4. If you are unable to afford the fee, you may be able to fill an application for a fee waiver. If you qualify, you won't have to pay filing fees and also may be exempt from additional fees for service to the other parent.^[21]



Make note of the date of the hearing. When you file your motion, the clerk typically will schedule a day and time for a judge to hear your case.^[22]

1. You must appear in court on the date scheduled or your motion will be dismissed, so be prepared to make whatever arrangements are necessary to be in court on that day.
2. You also must have the other parent served within a certain number of days before the day the hearing is scheduled, typically between 10 and 15 days.^[23] If this deadline isn't noted in your paperwork, the clerk will be able to tell you. However, generally you should plan on taking care of service the same day you file your motion, as it may take a few days to catch up to the other parent and deliver the papers.

3.



Have the other parent served. The other parent must have sufficient legal notice that you've filed a motion requesting he or she be held in contempt.^[24]

1. You can have the other parent served by using the sheriff's department or a private process serving company to deliver the papers personally. Either will charge a fee to complete service, typically between \$50 and \$75. If you can't afford the fee, you can apply with the court for a fee waiver.^[25]
2. Sometimes you'll have to pay the fee right away, while others don't ask for the fee until after service is completed.^[26]
3. In some jurisdictions, you can have the other parent served by anyone over the age of 18 who isn't involved in the case. The clerk will be able to tell you what options are available to you to serve the other parent.

4.



File your proof of service. If your process server does not file proof of service with the clerk on your behalf, you may be required to file it yourself.

1. If you have to file the papers yourself, make sure the process server has filled out all of the required information, then make a copy of it for your records before you file the original with the court.^[27]
2. Some process servers file the proof of service for you when service is completed. You'll find out the process when you give the documents to the process server.^[28] If the proof of service form is filed for you, make sure you check with the clerk and get a copy of the form for your records.

5.



Fulfill any pre-hearing requirements. Some courts may require you to attend mediation prior to a contempt hearing.

1. Additionally, the court that issued your original order may have a family services office that will provide mediation services that can resolve the issue without you having to file a motion in court.^[29]
2. The clerk will be able to tell you if those services are available, or if your court requires an attempt at mediation before the judge will hear your motion.

6.



Prepare for your hearing. Organizing your documents and outlining the points you want to make for the judge will help you get ready to present your case.

1. Make sure you have copies of everything you've filed with the court, as well as any documents that support your request.
2. Write down the facts you want to emphasize, especially dollar amounts and dates, because these are details you could easily forget when you are speaking before the judge.
3. In most courts you also are allowed to present witnesses to testify on your behalf.^[30] Make sure your witness has something relevant to add to your evidence and support your case, rather than simply having someone who will testify as to what a good person you are.

Attending Your Hearing



Appear in court. Make sure you show up at least 30 minutes before the time your hearing is scheduled so you have time to go through security and take your seat.

1. Even if you and the other parent have reached an agreement, you typically have to appear at the hearing and present your agreement for the judge to approve.^[31]
2. You may have to go to the clerk's office to find out the courtroom in which your motion will be heard, and how your case will be called.^[32]
3. Take a seat in the galley until the judge calls your name. Then you can stand, indicate that you're ready, and move to a seat behind the tables at the front of the courtroom.^[33]
4. Typically you will be sworn in before you being telling the judge about your case.^[34]
5. If the other parent does not appear in court, the judge may issue a warrant for his or her arrest. This warrant forces him or her to go to court.^[35]

2.



Present your case. Since it's your motion, the judge will ask you to present first.^[36]

1. Keep your initial comments brief, and stick to the facts.^[37] Speak only to the judge – don't direct your statements to the other parent or try to argue with him or her.
2. If you've brought witnesses, you will have the opportunity to call them and ask them questions after you explain your case to the judge. Keep in mind that the other parent also will be given a chance to ask questions of any witness you call.^[38]

3.



Answer any questions. Either the judge or the other parent may have questions to ask you after you've presented your case.

1. If you're asked questions, answer completely and directly. Speak slowly and clearly, and try to avoid getting overly emotional.^[39]
2. If the other parent is permitted to question you, answer his or her questions, but avoid arguing or making accusatory statements.

3. Remember that you are under oath. If you don't understand a question, you should ask for clarification. If you don't know the answer to a question, you can simply say you don't know – don't try to make up an answer or guess.



4.

Listen to the other side. After you've presented your case, the judge will allow the other parent to tell his or her side of the story.

1. The other parent must explain to the court why he or she hasn't obeyed the order. The judge's decision may depend on the reasons stated.^[40] Essentially, the judge won't find the other parent in contempt if he or she has a good reason for disobeying the court order or is currently unable to obey it.^[41]
2. If the other parent was permitted to ask you questions, you must be given a chance to ask him or her questions as well.^[42] Stick to the facts of your case when asking questions – avoid asking anything irrelevant or personal if you know the answer won't relate to the reasons he or she hasn't obeyed the court order.
3. If the other parent brings witnesses, you have the opportunity question them just as he or she had the opportunity to question your witnesses.^[43]

5.



Receive the judge's order. The judge may rule from the bench, or take time to review all the documents before making a decision.^[44]

1. If the judge rules in your favor and finds the other parent in contempt, attorney's fees and court costs may be included in the order.^[45]
2. The judge's order may depend on the reasons the other parent gave for disobeying the court order. If the judge determines the other parent has the money he or she owes you, the order may force him or her to make a payment in full.^[46]
3. If the other parent was unable to pay due to unemployment, the judge may order him or her to look for a job or participate in job training.^[47]
4. In other cases, the judge may order community service or a jail sentence.^[48]

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