

INSTRUCTIONS FOR SELF-HELP CONTEMPT PACKET

INTRODUCTION --

These forms were prepared to help people who have been involved in family law cases where the opposing party has violated an earlier order of the Court. People involved in such disputes are almost always better off with a lawyer. If you can afford a lawyer, you should probably have a lawyer handle this case for you. Even before using this form, you should talk with a lawyer to see if you can appropriately proceed by yourself and to get some helpful advice. By making this form available to you, West Virginia Legal Services Plan, Inc., does not represent that this is the right thing for you to do in your case.

DIRECTIONS FOR COMPLETING THE FORMS --

First, get a copy of the most recent order in your case. The name and case number of the case should appear at the top of the first page. You will need to copy the name and case number from the order onto your Notice of Hearing form. Next, fill in the other party's name and mailing address in the lines following the word "TO:" on the Notice of Hearing.

You will then need to contact the Circuit Judge's office and ask for a hearing to be scheduled. If there is more than one Circuit Judge in the county where your case will be heard, the Circuit Clerk's office should be able to help you find out which judge will have responsibility for your case. Have the name and case number of your case available when you call. Explain to the Circuit Judge's secretary or assistant that you are asking for the opposing party to be held in contempt of an existing Court order and that you will be representing yourself. You should then be given a hearing date and time, or additional instructions about how to obtain a hearing date. When you have a hearing date and time, write that date and time in the appropriate blanks on the Notice, and fill in the blanks for the Judge's name and for the county and city where the hearing will be held. Sign and date the Notice form at the bottom of the page.

On the Petition form, again copy the name and case number of your case, exactly as they appear on your existing order. Fill in the blank for your name, and check whether the other party is listed as the plaintiff or the defendant on your existing order. Next, fill in the date that your existing order was entered; this date should appear on the same page of the order that includes the judge's signature.

In paragraph 1 of the Petition, check whether you are listed as the plaintiff or the defendant on the existing order. In paragraph 2, fill in the date of the existing order again, and then write out the provision or provisions of the order that the other party has violated. In paragraph 3, you will describe the violations that have occurred. In paragraph 3, you will want to be specific enough that anyone reading the Petition will understand what your complaint is about.

Before signing your Petition, go back over it and make sure it is completely true. When you sign it, you will be swearing under oath that everything in it is the truth. You will want to make sure that there are no mistakes.

Next, sign your name and fill in the blanks for your name and address. You will then need to sign the Petition again, in front of a notary public. The notary public will fill out the blanks in the 'verification' part of the Petition form.

FILING AND SERVING YOUR PAPERS --

After you have completed the forms, you will need to file them and arrange to have them served on the other party. Take the original and two copies of the completed forms to the Circuit Clerk's office in the Courthouse of the county where the case must be heard. You should also keep a copy for your own records.

When you take the papers to the Clerk's office, you can ask the Clerk to have the papers served on the other party by certified mail or in person. Ordinarily, there is a fee for having your papers served, but you may qualify for a waiver of the fee. The Clerk can give you a form to fill out to see if you qualify for a waiver. Because the practice is different from county to county, you may want to ask the Clerk whether they will notify you when the papers have been served or whether you will need to check back to make sure they have been served.

YOUR HEARING --

At your hearing, you will have the opportunity to explain to the Judge how the other party has violated the order and what effect the violations have had on you (or on your children, if the violation involves them). You will also have the opportunity to explain to the Judge what you would like for him to do. In addition to telling your own story, you will have the right to present witnesses and other evidence (such as photographs or documents). If necessary, your witnesses can be subpoenaed, to require them to attend. Having a subpoena issued can be a good idea where witnesses might prefer not to attend or where they have to miss work in order to attend. As a general rule, you cannot say what someone else has told you; that person has to be in Court to say it himself or herself. You will need to ask questions of your witnesses to help them bring out the points you want them to talk about, just like a lawyer would do if you were being represented by a lawyer.

The other party will also have a chance to tell his or her side of the case, and to present witnesses and other evidence. Each side also will have a chance to cross-examine anyone who testifies for the other side. If the other party testifies or presents another witness, you can ask the witness questions to show that he or she is mistaken, telling only part of the story, or not telling the truth.

After the hearing, the Judge will make a decision, based on the evidence presented.

Usually, the Judge will announce his decision before the parties leave the Courtroom, and that decision is then written up as an order of the Court. Sometimes the Judge may send a written decision to the parties after the hearing is over, without announcing his decision at the hearing.

If you have further questions, you should consult with a lawyer.