

Respond to a motion for contempt

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What can happen and how to respond if the other party claims you're not following (not obeying) a court order. (Forms and instruction)

1. Fast facts

Why did I get contempt papers?

If you received a Motion or Petition for Contempt for not obeying a court order, it's because the person who filed it believes that you're purposely not following the court's order. They're asking a judge to find you "in contempt" of the order.

A party can file a **Motion** for Contempt in the same court and case number as the order they want to enforce. The Prosecuting Attorney can start a new case with a **Petition** for Contempt to enforce a child support order for the Division of Child Support. The process to respond is the same. We'll use the word "motion" here to refer to a petition or motion for contempt.

Do I have to respond to a motion for contempt?

Yes. Don't ignore these papers. If you don't respond on time, the other party will probably get what they're asking for.

Find out your deadline! Every county's motion response deadline is different. It could be anywhere from **1 week** to **1 day** before the hearing. It may not be listed on the papers you received. Contact the Superior Court Clerk's office (https://www.courts.wa.gov/court_dir/?fa=court_dir.county) or Courthouse Facilitator (https://www.courts.wa.gov/court_dir/?fa=court_dir.facils) to ask what the deadline to respond is. Tell the clerk what type of motion you received and when the court hearing will be.

If you think you need more time to respond, you should still get ready for the hearing as best you can. Also contact the other party to see if they'll agree to reschedule (to continue) the hearing to a later date.

If you can't respond in time, you can file a **Notice of Appearance** and ask the judge to reschedule your hearing to a later date. If the judge doesn't reschedule, you must go to the hearing as scheduled and be as ready as possible. If you don't go to the hearing, the judge might issue a bench warrant for your arrest.

Do I have a right to a free lawyer?

Sometimes the judge can send you to jail for contempt. If you receive **contempt papers asking for jail time** and you have a low income, you may have a "right to counsel" – a lawyer that you don't have to pay.

To find out if you qualify for a public defender or court-appointed attorney, contact your local public defender office (<http://www.opd.wa.gov/index.php/public-defender-offices>). If there's no local public defender, ask your family law facilitator (https://www.courts.wa.gov/court_dir/?fa=court_dir.facils), if your county has one, or your court clerk for a referral. If this doesn't work, ask for a court-appointed lawyer in your response and at the start of your hearing.

The public defender will probably represent you only for the contempt hearing. The public defender won't help you file your own motion or other action, such as a petition to modify child support order.

Even if you don't qualify for a public defender, you should still try to talk to a lawyer. A lawyer can advise you about important legal rights. **Example:** You might want to file your own motion for contempt or ask for a change in the order the

other party claims you've violated. A lawyer can advise you what to do.

2. Step-by-step

Follow these steps to respond to a motion or petition for contempt.

Ask the court clerk or family law facilitator (if there is one) (https://www.courts.wa.gov/court_dir/?fa=court_dir.facils) about any local requirements you might have to follow on top of the steps we list here.

Need an interpreter? You have the right to interpreter services in court at no cost to you. Each court should have a contact person for interpreter requests. As soon as you find out about a court date, contact the court to ask for an interpreter.

Need accommodations? Ask for accommodation for a disability that limits your ability to take part in a court hearing or trial. Each court should have a contact person for ADA requests. You can use the state's Request for Accommodation form (<https://www.courts.wa.gov/forms/?fa=forms.contribute&formID=71>). As soon as you find out about a court date, contact the court to make this request.

1. **Read the papers you received.** They should include an Order to Go to Court for Contempt Hearing (Order to Show Cause), which will list a court date. You may also have received other documents. **Read everything you were served with.**

2. **Gather your evidence and write a declaration.** You can write and file a declaration explaining why you're not in contempt of the court order.

You can also have other people write declarations if they have helpful information. Think carefully about what information can help show what you are telling the judge is correct, or what the other side is saying isn't true.

Ask the court clerk or facilitator about page limits for declarations and how many declarations from other people you can submit.

If you have other documents that help prove your points, you can attach them as "Exhibits" to your declaration. Organize your Exhibits so the judge can understand them. Add labels and dates to pictures, texts or emails.

Examples to attach as Exhibits: text messages, photos, bills, school grades, daycare records, criminal history, law enforcement records.

Some confidential documents should be filed separately under a sealed cover sheet. This keeps them out of the public court file. You must still serve them on the other party. **Examples:** paystubs, tax returns, bank statements, benefit statements, medical or treatment records, special education records, confidential evaluations or reports.

If you're afraid for your safety or the children's safety, you can block out information identifying your location on the copies you file with the court and give the other party.

If you received a **Petition** for Contempt from the State (on behalf of DCS), you should also file a Notice of Appearance. If the State gave you a Response to Petition form, fill that out too.

3. **Make copies.** You need one copy of each completed form for yourself, one for the judge, and one for each other party to your case.

Organize the copies in sets, so there's one set for each person who needs a copy. You don't have to give the other party a copy of the Proof of Mailing or Hand Delivery. Put each set of papers into an envelope addressed to each party, with your return address. You'll use these sets for service.

4. **File with the court clerk by the response deadline.** File the originals with the Superior Court Clerk. Ask the clerk to stamp your copies to show the date you filed the originals. Take the stamped copies back from the clerk. The clerk keeps the original.

Deliver working copies to the judge, if required in your county.

5. **Have copies served on the other party by the response deadline.**

If the other party has a lawyer, serve the lawyer instead.

Unless there's a restraining order against you, you can serve the papers yourself, but it is better to have someone else do it. Ask an adult friend or relative to do it for you.

You can serve by hand delivery or first class mail. You can only serve by email or fax if the other party has put in writing that they agree to accept legal papers for this case in that way. Follow the rules to serve papers after a case starts.

6. **Have the server fill out the Proof of Mailing or Hand Delivery. Make 2 copies.** File the original with the Superior Court Clerk. Bring your copies to the hearing.

7. **Go to the hearing.** Read chapter 4 for how to get ready and what to expect at the hearing.

8. **Get copies of any orders the judge signs.** Ask the clerk how to get the copies you need.

If the judge found you in contempt, the Contempt Hearing Order should say how you can correct (purge) the contempt. The judge may have set a review hearing to see if you're following the order. You risk further punishment if you don't correct the contempt or attend future hearings. Ask the judge if you're not sure what you need to do to follow the order.

9. If you disagree with the judge's decision, try to talk to a lawyer right away.

You might want to file a motion for revision or reconsideration. You must file those motions **within 10 days** of the order you want to change.

"Judge" here refers to judges and court commissioners.

3. Defenses

Here are some arguments you can make to fight (some defenses to) a contempt motion:

- **The Court order isn't legal (it's invalid).** This may be because the court had no authority to act (no subject matter jurisdiction), or you didn't receive legal notice in the original case (the court doesn't have personal jurisdiction over you).
- **You didn't violate the order.** Example: The motion claims you owe back due child support. But you have proof that you paid the support it says you owe.
- **It isn't your fault you can't follow the order.**

Example 1: The motion says you didn't pay child support. You're unable to pay. You must prove you tried hard to get work, save money, or otherwise follow the order.

Example 2: The motion says you violated your parenting plan. You must prove you're unable to follow the parenting plan, or you have a reasonable excuse for not doing so.

- **You didn't know about the order.** You should use this defense **only** if you can prove you never got proper notice of the hearing that led to the order.
- **The order is unclear or seems to have more than one possible meaning.** You may still have to try to follow the order as you interpret it, or get clarification. You can't just ignore it.
- **The court order has ended.** Examples: A temporary family law order has ended (expired). The court has changed a final parenting plan.
- **You weren't properly served with the Order to go to Court for Contempt Hearing (Order to Show Cause),** or you were served late, with not enough time to respond. Most judges require "personal service" of contempt motions — that you or another adult living in your household have the papers handed to you. If this didn't happen, you may have a defense. Try to talk to a lawyer to find out if you should have been "personally served."

This is only a temporary defense. The other side can fix this by giving you the proper notice and enough time to respond.

What's not a good defense to a contempt motion?

- Someone (lawyer, friend, relative, other) advised you to violate the order.
- You disagree with the order.
- You believe the judge made a mistake by signing the order.
- The other parent violated their own responsibilities under the order. ("They didn't follow it either.") **Example:** The other parent refuses to allow you visitation. That doesn't excuse you from paying child support.
- You thought you and the other party agreed to ignore the order.

4. Hearing

Get ready for the hearing

Try to go to court before the day of your hearing or check the court clerk's website to see if you can watch a hearing online. Watch how the court generally does hearings. Try to make some notes to yourself about the main points to make at your hearing.

Organize your paperwork. Plan to bring your set of court papers and your copies of any papers the other parties gave you in response. Bring extra copies of any proposed orders you want the judge to sign.

Get to your hearing early. Try to figure out before the day of the hearing how you will get there and how long it will take. Give yourself time to get through security, and to the right courtroom. If you aren't there on time, the judge could cancel the hearing, or the other party may win.

Bring your paperwork, a pad of paper, and a dark pen to take notes. Dress neatly. Try not to bring your children if you can make other arrangements for them. The judge usually won't let them sit in the courtroom.

When you get to the courtroom, tell the person in charge in the courtroom (the clerk or bailiff) your name and your case name and number. Take a seat. When the judge walks in the room, stand.

If your hearing is online, follow these [tips for phone and video hearings](#).

Your case will be one of several that are scheduled for the same time on the court calendar (called a docket). Listen to the judge and wait for them to call your name. When they call your name, tell the court you are present. Stay in court until they call your case for hearing.

When your case is called

In most cases, the judge will have read your papers before the hearing. The judge will make a decision based on the paperwork filed by both parties in advance.

You usually won't be able to testify, have witnesses testify, or otherwise give evidence at the hearing. You'll just get to tell the judge briefly what you want and why. This means you want to prepare beforehand by making notes about the main points you want to say to the judge.

If the other party gets a lawyer: If another party's lawyer contacts you or shows up at a hearing, you may decide to get one yourself. If so, tell the lawyer and the judge you need to postpone (continue) the hearing. The lawyer may ask you to sign some documents. **Don't sign anything you don't understand.**

If the other party shows up at the hearing, each of you will get to tell your side of the case. Stand while speaking. Tell the judge briefly what you want and why. Try to keep your argument short. Only outline your main points. You may have as little as 5 minutes to speak. Don't repeat everything in your papers. If you brought proposed orders, ask permission to hand them up to the judge.

If the judge asks you a question, try to answer it directly. **Don't interrupt the judge.**

Hearing the judge's decision

After the judge has heard both sides, the judge decides on the requests. Listen carefully. Make notes. Usually, the judge gives their decision out loud, then it must be put in writing in a court order.

It's best to bring **proposed orders** so the judge can sign them at your hearing. If no one brought proposed orders, the judge may tell you, the other party, or the other party's lawyer to write the orders and come back later for the judge to sign. The judge could schedule another hearing in a week or two just for signing orders.

If the other party prepared the orders, read them carefully. Make sure they say what the judge said. If you're not sure, **don't sign the orders**. Ask to go back before the judge to make sure the order says what the judge said.

Get copies of the signed orders

Make sure you get a copy of any orders with the judge's signature. Ask the clerk how to do this.

5. Decision

At the end of the hearing, the judge will decide if you are or aren't in contempt.

Not in contempt

The judge could find that you actually did follow the court order. Or the judge could decide that you didn't obey the court order, but it's not your fault.

The judge could also find that you probably won't be **able to follow** the order in the future. In this situation, the judge may tell you to file a motion to change the court order so you don't keep violating it.

In contempt

If the judge finds you're in contempt, the judge can order one or more of these:

- A new order designed to make you follow the order in the future
- A review hearing to check if you're following the order
- You must pay a fine of up to \$2,000 for each day the contempt continues
- You must pay for losses to the injured party
- You must pay the injured party's costs in bringing the contempt motion
- If this is at least the 2nd time you've been found in contempt for violating a parenting plan in the last 3 years, and you have custody, the judge can give the other parent custody
- The judge can order you jailed, as a last resort and only if it serves the purpose of getting you to follow the order

A contempt order must say what you can do to fix (purge) the contempt.

6. Forms

Form attached:

Declaration of (name): _____ **(family law)** (FL All Family 135)

Form attached:

Sealed Cover Sheet – Confidential (All Civil 040)

Form attached:

Proof of Mailing or Hand Delivery (family law) (FL All Family 112)

If you received a **Petition** for Contempt from the State (on behalf of DCS), you should also file a Notice of Appearance. If the State gave you a Response to Petition form, fill that out too.

()Tips for filling out the Declaration (FL All Family 135)

Use this to respond to the motion for contempt in your own words. You can also ask other people to write declarations if they have evidence to help prove you weren't in contempt.

Before starting to write your own declaration, or asking anyone else to write one, carefully read each paper you received from the other party. You must understand what the papers say so you can write a good declaration.

Highlight the main points (and those you disagree with) with yellow highlighter or write notes on a separate piece of paper. Look for:

- What the other party wants
- How the other party says you violated the court's orders
- Claims the other party has made about you or the case
- Think about any proof that you knew about the order the other party claims you violated. Were you at the court hearing? Were you served with the order afterward?
- Read the order the other party says you violated. Can you prove you were following it, or that you had a good reason for not following it?
- Make sure the order in question is the most recent order and still in effect.

Example: If the other party claims you're violating a parenting plan, but the judge later entered a modified parenting plan or a Protection Order, look at the most recent plan or order. Its requirements might be different from the one the other party says you've violated. If you don't know if you have the most recent order, check with the court clerk. See if later orders change the one the other party wants enforced through contempt.

Next, **gather the evidence** you'll need while writing your declaration. Think carefully about how to prove that what you're telling the judge is correct, or what the other party is telling the judge is wrong. **Examples:**

- **Court orders or other court documents** – For example, if you believe the order the other party is trying to enforce is no longer in effect, or you were following a different order, get copies of those orders. Include them with your declaration. If you want to prove that you never knew about the court order that the other party says you violated, try to look in the court file for proof of service, or for Minute Entries (to show whether you were at a hearing).
- **Declarations of witnesses** – Declarations of other people who have personal knowledge about you, the other party, or your children, and whether you tried to follow the court orders.

By presenting a declaration from a witness, you may be giving up the right to keep confidential other information that witness may have about you or the child.

- **Records** – other court orders, bills, receipts, cancelled checks, and the children's school records or daycare records, child support or CPS records are among the types of official records you might include in your response. You can refer to records in your declaration and, if needed, use a sealed cover sheet to protect private or sensitive information.
- **Photos** – of injuries to you or the children, or of damage to your home or other property.
- **Financial information** – if the contempt motion includes financial issues (or you're asking for a court-appointed lawyer because the other party asked for jail time for you and you have a low income), get evidence of your income and assets and the other party's income and assets. If the contempt motion

is for failure to pay support, maintenance, or other obligations, you must prove that you paid or were unable to pay. You may need your federal income tax return forms from the last two years, pay stubs, official letters from Social Security, L&I, Employment Security or DSHS saying how much you get in benefits, bank account statements, and business tax returns or records, or 1099 forms, cancelled checks, and receipts. File those financial records under a sealed cover sheet. You could also fill out a Financial Declaration form.

Read Write a Declaration – Family Law for more tips.

Tips for filling out the Proof of Mailing or Hand Delivery (FL All Family 112)

Fill out this form after serving the other party. Whoever served the other party must sign it. Follow the rules for service after a case starts.

Check to be sure your server filled out the date of service, who the papers were delivered to, and how they were delivered. Also be sure the form lists all documents that were served. If your server leaves out a form, you won't have proof it was served.

WashingtonLawHelp.org gives general information. It is not legal advice. Find organizations that provide free legal help on our Get legal help page.

Superior Court of Washington, County of _____

In re:

Petitioner/s (*person/s who started this case*):

And Respondent/s (*other party/parties*):

No. _____

Declaration of
(*name*):

(DCLR)

Declaration of (*name*): _____

1. I am (*age*): _____ years old and I am the (*check one*): ☐ Petitioner ☐ Respondent
☐ Other (*relationship to the people in this case*): _____

2. I declare: _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

(Number any pages you attach to this Declaration. Page limits may apply.)

Signed at (city and state): _____ Date: _____

Print name

Declaration
p. 2 of ____

Superior Court of Washington, County of _____

In re:

Petitioner/s (*person/s who started this case*):

And Respondent/s (*other party/parties*):

No. _____

Sealed Cover Sheet – Confidential:

(*check one*)

☐ Sealed Financial Source Documents
(SEALFN)

☐ Sealed Personal Health Care Records
(SEALPHC)

☐ Sealed Confidential Report (SEALRPT)

Court Clerk: *This is a Restricted Access Document. Do not file in a public access file.*

Sealed Cover Sheet – Confidential

Important! Use this cover sheet as **page 1** of a separate filing. Check document/s below. Write “Confidential” at least one inch from the top of the first page of each attached document. For use only in family law, guardianship, and protection order cases.

☐ Financial Source Documents (SEALFN) (*describe*) _____

☐ Health Care Records (SEALPHC)

☐ Medical/Psychological Report (SEALRPT)

☐ Court Visitor/Guardian ad Litem Report (SEALRPT)

☐ Social Security Representative Payee Report (SEALRPT)

☐ Other _____

Submitted by:



Signature

Print Name

☐WSBA ☐CPG#

Privacy Notice! All parties, court staff, and authorized volunteers may have access to these documents.

Superior Court of Washington, County of _____

In re:

Petitioner/s (*person/s who started this case*):

And Respondent/s (*other party/parties*):

No. _____

Proof of Mailing or Hand Delivery
(for documents after Summons and
Petition)
(AFSR)

Proof of Mailing or Hand Delivery
(for documents after Summons and Petition)

Warning! Do **not** use this form to prove you mailed or delivered a Summons, Petition, Order to Go to Court, or any kind of Restraining Order. For those documents, use Proof of Personal Service (FL All Family 101), or if you have court permission to serve by mail, use Proof of Service by Mail (FL All Family 107).

I declare:

1. I am (*check one*): ☐ the Petitioner ☐ the Respondent ☐ (*name*): _____
_____ and I am competent to be a witness in this case.

2. On (*date*): _____, I served copies of the documents listed in **3** below to
(*name of party or lawyer served*): _____ by:

☐ mail (*check all that apply*): ☐ first class ☐ certified ☐ other _____

Mailing Address City State Zip

☐ email to (*address*): _____
(*only if allowed by agreement, order, or your county's Local Court Rule*)

☐ fax to (*number*): _____
(*only if allowed by agreement, order, or your county's Local Court Rule*)

☐ Hand delivery at (*time*): _____ ☐ a.m. ☐ p.m. to this address:

Street Address City State Zip

I left the documents (*check one*):

- ☐ with the party or lawyer named above.
- ☐ at the attorney's office with the clerk or other person in charge.
- ☐ at the attorney's office in a conspicuous place because no one was in charge.
- ☐ with (*name*): _____,
at the address listed in court documents where the party agreed to receive legal papers for this case.
- ☐ (*For a party or lawyer who has no office or whose office is closed*) at their home with (*name*): _____,
a person of suitable age and discretion who lives in the same home.

3. List all documents you served (*check all that apply*):

(*The most common documents are listed below. Check only those documents that were served. Use the "Other" boxes to write in the title of each document you served that is not already listed.*)

<input type="checkbox"/> Notice of Hearing (<i>hearing date</i>): _____	<input type="checkbox"/> Notice Re: Military Dependent
<input type="checkbox"/> Motion for Temporary Family Law Order <input type="checkbox"/> and Restraining Order	<input type="checkbox"/> Sealed Financial Documents
<input type="checkbox"/> Proposed Temporary Family Law Order	<input type="checkbox"/> Financial Declaration
<input type="checkbox"/> Proposed Parenting Plan	<input type="checkbox"/> Declaration of: _____
<input type="checkbox"/> Proposed Child Support Order	<input type="checkbox"/> Declaration of: _____
<input type="checkbox"/> Proposed Child Support Worksheets	<input type="checkbox"/> Declaration of: _____
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____

4. Other: _____

I declare under penalty of perjury under the laws of the state of Washington that the statements on this form are true.

Signed at (*City and State*): _____ Date: _____

► _____
Signature of server

Print or type name of server