

Show-Cause Proceedings



PSA 25 (updated 10/10)
This publication is produced with IV-D funds.
Friend of the Court Bureau/SCAO
Michigan Supreme Court
<http://www.courts.michigan.gov/scao>

Show-Cause Proceedings

A court will hold a show-cause hearing when the local friend of the court office (the FOC) informs the court that a parent may have violated that court's order regarding child custody, family support payments, or parenting time. In response to the information that the FOC has provided to the court, the judge usually will order the parent to appear in court to show cause why the court shouldn't hold the parent in contempt of court for violation of the court's order. This brochure provides a brief summary of show-cause proceedings. **This brochure is NOT a substitute for obtaining legal advice.**

Show-Cause Orders and Hearings

A show-cause proceeding traditionally is initiated when the FOC or one of the parties files a motion (a type of court document) saying that the party has disobeyed the court's order. For example, the motion might say that a party disobeyed the court's order by failing to

- pay child support,
- pay spousal support,
- pay child care expenses,
- pay health care expenses,
- pay court costs,
- pay attorney fees,
- follow the custody or parenting time schedule, or
- provide information that a party was required to provide.

If the court believes that the party *may* have disobeyed the order, then the court will issue a show-cause order that requires the party to appear in court on a specified date. In court, the party must explain why the court should not find that the party is in contempt of court for violation of the order. The possible defenses at a show-cause hearing include: (1) that the party did not violate the earlier order, or (2) that the party had a very good reason to violate the order. Only in extraordinary circumstances will a court accept the second of those defenses.

Who Presides Over a Show-Cause Hearing?

Show-cause hearings may be held before either a judge or a referee. A referee is a person (usually an attorney) that the court has appointed to conduct certain types of hearings. Referees cannot issue orders themselves, but they hear the evidence and prepare a recommended order for the judge's review. Unless someone objects, the judge usually will sign the referee's recommended order, which then becomes a court order.

If you appear for a show-cause hearing before a referee and you disagree with the referee's recommendation, you may file a written objection within 21 days and may request a completely new hearing. That hearing, referred to as a "de novo" hearing, will be held before the judge. Some circuit courts have local procedures that provide additional ways to object to a referee's recommendation.

If you wish to object to a referee's recommended order, you should discuss the matter with your attorney or contact the local FOC. FOC employees cannot give legal advice about the merits of your case, but they can tell you if there are local procedures to be used to object to a referee's recommended order.

What Happens at a Show-Cause Hearing?

If you are served with a show-cause order, you must appear before the referee or judge on the date stated in the order. At that time, be prepared either to prove that you obeyed the court's order or to explain why you could not obey the order. If possible, you should bring to court any documents that support your argument, such as receipts, canceled checks, or similar evidence.

If you are ordered to show cause, and you believe that the requirements in the order are no longer appropriate because of your family's changed circumstances, then, as part of your response to the show-cause order, you may ask the court to change the order. That kind of request may be filed with the court at any time, but must be filed at least 9 days before the hearing date and served on the other party. The court may require you to set the hearing for your request on a different date.

Contempt of court is a very serious matter. If a court finds you in contempt of court, you may have to pay a fine or even be required to serve a jail sentence. You may choose to have a lawyer represent you at a show-cause hearing, but that is not required.

Possible Sanctions for Violation of a Court Order

If you are found in contempt for **failing to pay support**, the judge may do any of the following:

- Grant you additional time to obey the order.
- Require you to pay a specific amount of money by a certain date.
- Suspend your driver's, occupational, or recreational licenses.
- Require you to participate in a work activity.
- Order you to participate in a community corrections program.
- Order that you go to jail and/or pay a fine.
- Place a lien on your property.

If you are found in contempt of court for disobeying a **custody or parenting time** order, the judge may

- order "makeup" parenting time,
- modify the parenting time order,
- suspend your driver's, occupational, or recreational, licenses,
- order you to participate in a community corrections program, and/or
- order that you go to jail or pay a fine.

In addition to the sanctions listed immediately above, if the court finds that you acted in bad faith with respect to a parenting time violation, you may be fined up to \$250 for the first violation, up to \$500 for the second violation, and up to \$1000 for the third and subsequent violations.

The court may place anyone who is found in contempt for violation of a parenting time or custody order in jail or on probation with the FOC. The court, as part of the party's probation, can require the party that violated a parenting time order or a custody order to

- participate in a parenting program,
- participate in drug or alcohol counseling,
- participate in a work program,
- seek employment,
- participate in other counseling,
- obey the support or parenting time order, and/or
- enter into an arrearage payment plan or a make-up parenting time plan.

HELPFUL HINTS: HOW TO AVOID A SHOW-CAUSE PROCEEDING

If a court orders you to do something, do it!

You should obey an order even if you believe that the order seems unfair. You may file a motion asking the judge to change the order, or you may appeal the judge's decision to a higher court. But obey the order until a court changes it.

Keep accurate records.

All support payments should be made to the Michigan State Disbursement Unit - unless the judge has ordered you to pay in some other manner. You should keep copies of checks, money orders, or other documents that create a written record of your payments.

Similarly, if there is a dispute about custody or parenting time, keep a journal or some other accurate written record that shows what happened and when it happened.

Work it out.

Try to settle your parenting time or custody differences by negotiating directly with the other parent. If you cannot do that, then ask the FOC to provide mediation services, or use a private mediator. Settling disputes informally saves time and money for everyone.