

Show Cause Proceedings



Friend of the Court Bureau
Michigan Supreme Court
<http://www.courts.michigan.gov/scao>

PSA 25 (updated 02/09)
This publication was produced with federal Title IV-D funds.

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 earlier order regarding child custody, family support payments, or parenting time. In response to the FOC's report, the judge usually will order the parent to appear in court for a show cause hearing, sometimes called a contempt of court hearing. This brochure provides a brief summary of show cause proceedings. **This brochure is NOT a substitute for obtaining legal advice from an attorney.**

Show Cause Orders and Hearings

A show cause proceeding begins when the FOC files a motion (a type of court document) in which the FOC alleges that a party has disobeyed an earlier order issued by that court. For example, the motion might say that the party disobeyed the court's earlier 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 (visitation) schedule established by the court's earlier order; or
- Provide information that a party was required to provide.

If the court agrees with the FOC that a party *may* have disobeyed an earlier court order, then the court will issue a show cause order that requires a party to appear in court on a specified date and respond to the FOC's allegations. In court, the party must show cause (explain) why the court should not find that the party is in contempt of court for violating the earlier 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 for violating the order. Only in extraordinary circumstances will a court accept the second of those defenses.

Who Supervises a Show Cause Hearing?

Show cause hearings may be held before either a judge or a referee. A referee is a person (almost always 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. Unless someone objects, the judge usually will sign the referee's recommended order, which then becomes an order of the court.

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 request a

completely new hearing before the judge (MCR 3.215). In some counties, the courts have local procedures that provide additional ways to file objections 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 friend of the court office. FOC employees cannot give legal advice about the merits of your case, but they can tell you about the local procedures for objecting 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 show cause order. At that time, be prepared either to prove that you obeyed the court's earlier order or to explain why you could not obey the order. If possible, you should bring to court all documents that support your argument, such as receipts, canceled checks, or similar evidence proving that you did obey the court's earlier order.

If you do not attend the show cause hearing, the court may issue a bench warrant for your arrest. A failure to appear also may cause the court to suspend your driver's license, occupational license, or recreational license (for example, a hunting license). A court also may place a lien against any property that you own.

If you are ordered to show cause, and you believe that the requirements in the earlier order are no longer appropriate for your family's circumstances, then, as part of your response to the show cause order, you may ask the court to modify the earlier order. That kind of request must be filed with the court within 21 days from the time you were served with the show cause order.

Contempt of court is a very serious matter. If a court holds you in contempt of court for violating a court order, you may have to pay a fine or even 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 Violating 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 comply with the earlier 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.

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
- Fine you up to \$100.

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.

HELPFUL HINTS ON 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 one-on-one, then ask the Friend of the Court to provide mediation services, or use a private mediator. Settling disputes informally saves time and money for everyone.

Do not cut corners.

Do exactly what the court order requires you to do until the court itself changes the order. Choosing to obey only part of an order may seem right if, for example, you and the other parent have agreed to something other than what the court ordered. However, failing to obey any part of an order can have bad consequences for you.

Remember that you may ask the court to modify its earlier order. Therefore, if you and the other party agree that the court’s order should be changed, you should ask the court to issue a revised order reflecting your agreement. Otherwise, you take an unnecessary risk of being held in contempt of court.