

Comparison of Civil and Criminal Contempt

The following table summarizes the differences between civil and criminal contempt.

	Civil Contempt	Criminal Contempt
Purpose for imposing sanction	<p>Coercive: to compel compliance with court’s order by imposing punishment for an indefinite term until the contemnor complies or no longer has the ability to comply. At the time of hearing, the contemnor must be (1) under a duty to comply with the court’s order, and (2) in violation of the court’s order. <i>In re Contempt of Dougherty</i>, 429 Mich 81, 92-93, 99 (1987).</p> <p>Compensatory: to indemnify for loss caused by the contemnor’s conduct. MCL 600.1721. Note that MCR 3.708(H)(5) provides different punishments for criminal and civil contempt. <i>LAC v GLS</i>, ___ Mich App ___, ___ (2024). MCL 600.1715 and MCL 600.1721 “provide a specific punishment for a PPO violation that does not include the assessment of attorney fees.” <i>LAC</i>, ___ Mich App at ___. “[O]nly MCR 3.708(H)(5)(b) permitted the award of costs as set forth in MCL 600.1715 and MCL 600.1721 for civil contempt.” <i>LAC</i>, ___ Mich App at ___ .</p>	<p>Punitive: to preserve the court’s authority and dignity by punishing past disobedience of court’s order. <i>In re Contempt of Dougherty</i>, 429 Mich 81, 93 (1987).</p> <p>Compensatory: to indemnify for loss caused by the contemnor’s conduct. MCL 600.1721. Note that compensatory sanctions are enforced by way of a <i>civil</i> contempt order. Also note that “criminal contempt sanctions under [MCR 3.708(H)(5)(a)] do not include the indemnification provisions of MCL 600.1721.” <i>LAC v GLS</i>, ___ Mich App ___, ___ (2024) (quotation marks and citation omitted).</p>
Sanctions that may be imposed	<p>Monetary: Fine limited to \$7,500 per single contumacious act (unless otherwise provided), costs, and expenses of proceedings; damages for injuries resulting from contumacious conduct, including attorney fees. MCL 600.1715(1)-(2); MCL 600.1721; <i>Taylor v Currie</i>, 277 Mich App 85, 100 (2007).</p> <p>Jail: Contemnor may be incarcerated indefinitely until compliance or contemnor unable to comply. Incarceration is indeterminate and conditional. MCL 600.1715(2).</p>	<p>Monetary: Fine limited to \$7,500 per single contumacious act (unless otherwise provided); damages for injuries resulting from contumacious conduct, including attorney fees. MCL 600.1715(1); MCL 600.1721; <i>Taylor v Currie</i>, 277 Mich App 85, 100 (2007).</p> <p>Jail: Limited to 93 days per single contumacious act, unless otherwise provided. Incarceration is fixed and absolute. Probation may be imposed. MCL 600.1715(1).</p>

	Civil Contempt	Criminal Contempt
Intent of contemnor	Willfulness is not required. <i>In re Contempt of United Stationers Supply Co</i> , 239 Mich App 496, 501 (2000).	Willfulness is required. <i>DeGeorge v Warheit</i> , 276 Mich App 587, 592 (2007).
Contemnor’s ability to purge contempt	Contemnor must be given opportunity to purge by complying with conditions set by the court. <i>Casbergue v Casbergue</i> , 124 Mich App 491, 495 (1983).	Contemnor has no opportunity to purge. <i>State Bar v Cramer</i> , 399 Mich 116, 128 (1976).
Standard of proof	Unsettled: preponderance of the evidence, clear and unequivocal, and clear and convincing evidence standards have all been applied. See <i>Porter v Porter</i> , 285 Mich App 450, 457 (2009); <i>In re Contempt of Robertson</i> , 209 Mich App 433, 439 (1995); MCR 3.708(H)(3) .	Beyond a reasonable doubt. <i>DeGeorge v Warheit</i> , 276 Mich App 587, 592 (2007).