

WARREN COUNTY JUVENILE & DOMESTIC RELATIONS
DISTRICT COURT

FILING A CASE WITHOUT A LAWYER

CRIMINAL CASES: If you believe someone has committed a crime, and should be prosecuted, the Clerk of the Court cannot help you. A charge against an adult is brought by making a complaint to a magistrate (see page 7). A charge against a juvenile is brought by making a complaint to an intake officer of the Juvenile Court Services Unit (see page 7).

CIVIL CASES: If you have a problem concerning the custody, visitation or support of a child, or spousal support, or want a protective order:

HAS AN ORDER ALREADY BEEN ENTERED?

If **NO**, then you need to contact Juvenile Court Services, and schedule an appointment with the intake officer to have a petition or petitions issued to start your case.

If **YES**, do you want the Court to change the existing order? If so, then go to the section entitled, "Changing a Court Order" (page 2).

do you want someone punished by the Court for failing to obey the existing order? If so, then go to the section entitled, "Enforcing a Court Order" (page 4).

NOTE: You can ask to change an order, and to punish someone for violating an order, at the same time, but you must ask for it. The Court cannot address issues you do not raise in your pleadings.

FILLING OUT PLEADINGS: GENERAL INFORMATION

All court cases begin with a pleading. A pleading is a formal legal paper that informs the Court and the other party what you are asking for and why. You will need to file a pleading of some kind to have the court change or enforce an existing order. You can ask the Clerk for the proper forms for you to fill out.

The Clerk and the Deputy Clerks cannot help you prepare your pleadings, or tell you what to put in them.

All pleadings must be TYPED (double-space) or, if handwritten, MUST BE LEGIBLE. If the Court cannot read your pleadings, they can be dismissed without a hearing. The Clerk's Office will provide you with printed forms for your requested action, if it is a Motion to Amend (to change an existing order) or a Show Cause (to enforce an order you claim has been violated). If additional sheets are required, please use lined paper, which the Clerk's Office can give you. **DO NOT WRITE ON THE BACK SIDE OF PLEADINGS.**

Any pleading must include the residence address for all parties, so that they may be properly served with notice. A post office address, if different, should be included, but is not sufficient if it is the only address provided. The sheriff cannot serve pleadings to a box. Depending on the type of case, you may be required to provide other information, including social security numbers, dates of birth, and employers of parties or children.

BE TRUTHFUL, AND DO NOT EXAGGERATE. If the Court finds that you have made claims that have no reasonable basis in fact, or in law, you can be punished for filing a frivolous pleading.

CHANGING A COURT ORDER:

To change, or amend, an existing order, you need to file a Motion to Amend.

This Court can change, or amend, an existing order if 1.) the order was entered by this Court, 2.) the order was entered by a court in another state, and has been properly registered here for modification (See "Out-of-State Court Orders," below), or 3.) the order was entered by another court in Virginia, and the case has been transferred here.

The Court can amend an existing order concerning custody, visitation or support, or a protective order, IF it is shown that there has been a "material change in circumstances" from when the last order was entered. This means

that the facts that led to the last order may no longer apply, or that new facts have arisen that might effect the order.

A Motion to Amend needs to state the following:

- ◆ Your name and address
- ◆ The name and address of the other party or parties to the order you want changed. Parties include both parents of a child, the custodian of the child, and, in a child support case, any person receiving support for the child.
- ◆ The name and date of birth of any child, if this is a motion to change a custody or visitation order.
- ◆ If you are seeking to change a child support order, and Division of Child Support Enforcement (DCSE) is involved, the DCSE I.D. number.
- ◆ The name of the court that entered the last order, and the date of the order, and **A COPY OF THE ORDER WHICH YOU WANT CHANGED.**
- ◆ A brief summary of what the last order said that you want changed (such as, "custody of child granted to other parent").
- ◆ A brief statement of what you want the new order to say (such as, "custody of child granted to me").
- ◆ A statement of why the order should be changed (what has changed, or is different, since the last order was entered). If your statement does not set out changed or different circumstances since the date of the last order, the Court may dismiss your motion without a hearing.

NUMBER OF MOTIONS: If you are asking to change both custody and visitation, there needs to be a separate motion for custody, and another for visitation. Further, if more than one child is involved, you need to fill out separate custody and visitation motions for each child.

ENFORCING A COURT ORDER:

To enforce a Court order, you need to file a Show Cause complaint.

This Court can enforce an existing order if 1.) the order was entered by this Court, 2.) the order was entered by a court in another state, and has been properly registered here for enforcement (See "Out-of-State Court Orders," below), or 3.) the order was entered by another court in Virginia, and the case has been transferred here.

The Court can punish someone who is ordered to do certain things and wilfully disobeys the Court order to do so. Punishment can include civil fines or a jail sentence. If you feel someone has intentionally disobeyed an order, and should be punished for it, or forced to obey the order, you want to file a Show Cause Complaint.

The Show Cause Complaint needs to state the following:

- ◆ Your name and address.
- ◆ The name and address of the person who you claim disobeyed an order.
- ◆ How the order was disobeyed. If it is a support order, how much was the other person supposed to pay, and how much do you claim they owe you. If it is a visitation order, or some other order, what exactly did the other person do that violated the order (such as, "he did not let me have my child for visitation scheduled for 12/15/01").
- ◆ You must include a copy of the order you claim was violated.

If it is not clear from your complaint and the order that what you claim, if true, would be a violation of the order, the Court may dismiss your claim without a hearing.

1) The person against whom you seek to enforce an order must be in the Commonwealth of Virginia. Proceedings for violation of an order go directly against the person who is in violation, and allow the court to punish for violation. If the person is in another state, we cannot bring them to Virginia to be prosecuted, particularly because they could be prosecuted in the state where they are. A Show Cause complaint against someone in another state is probably a waste of your time, unless you know that person will be in Virginia, and can be served here with the papers. If you want to enforce a child support order against someone in another state, the Division of Child Support Enforcement can help you do that.

The laws regarding changing or enforcing an out-of-state order can be very confusing and complicated. The clerks cannot give you legal advice, or assist you in deciding how to proceed. **IF YOU ARE NOT SURE WHAT TO DO, YOU SHOULD CONSULT AN ATTORNEY FOR ADVICE.**

IF YOU NEED ADDITIONAL HELP:

If you have questions about how to proceed, or about your legal rights, the best source of information is an attorney. Only an attorney can give you advice about legal matters. To find an attorney, look in the Yellow Pages, or call 1-800-552-7977 for the Virginia Lawyer Referral Service, operated by the Virginia State Bar. If you cannot afford an attorney, you might qualify for assistance without a fee, in civil cases, from Blue Ridge Legal Services, 1-800- 678-5021

If you are the victim of a crime, and a charge has been brought against the person who committed the crime, the Commonwealth's Attorney's office can answer many of your questions, at 635-5441

If you believe you are the victim of a crime, you may want to contact the Victim-Witness Director, at 636-6638

If you believe you are the victim of domestic violence, you can call for help to the Warren County Council on Domestic Violence at 635-9194, or call the Hotline at 635-9062

OUT-OF-STATE COURT ORDERS:

This Court can modify or enforce the orders of another state, but only if certain conditions are met.

First, the original order from the other state must be registered with this Court. To register the order you will need two certified copies of the last order from the other state. You may need certified copies of more than one order. In some cases, the terms governing custody, visitation or support presently in effect may be spread over several orders.

If you want to have an order from another state changed, this Court can only do that if these conditions are met:

- 1) None of the parties to the original order, or the children, still live in the state that issued the order you want changed ("the issuing state"). If you have moved here, but the other parent still lives in the issuing state, you must go back to that state to modify the order; or
- 2) Even though one party still lives in the original issuing state, the courts of that state have entered an order stating that that state is not the proper place to decide the matter. In other words, the original state has agreed to let this state handle the case. This will most likely occur in custody or visitation cases where the children have lived here for a period of time. Please note, though, that the original state has to make that decision; this Court cannot do it for them. You will need to ask the original court to decline to hear the case.
- 3) If conditions 1) or 2) are met, this county must be the residence of the children, if you are seeking to change a custody or visitation order. If you are seeking to change a support order, then all the parties must live in Virginia, or the respondent (the person against whom the change is sought) must live in Virginia, or the children must live in Virginia, and the parents give written consent for this Court to hear the case.

If you want to enforce an order entered by a court of another state, this Court can only do that if these conditions are met:

To file criminal charges against an adult, contact the Warren County Magistrate's Office: 636-2017

To file criminal charges against a juvenile, to obtain a protective order, or to start a case concerning custody, visitation or support, where there is no existing order, you need to see an intake officer; contact Warren County Juvenile Court Services, Room 206, Warren County Courthouse, 636-4189

For help with child support, call the Division of Child Support Enforcement, 800-486-6440

**YOU SHOULD KEEP ALL
PAPERS TOGETHER
ESPECIALLY ANY COURT**

ORDERS. *These are Important documents!*

**Should you need to return to
Court concerning any Order
entered **YOU ARE REQUIRED
TO PROVIDE A COPY OF THE
ORDER.****

**Please place all papers in a
safe place.**

**Failure to provide a copy of
any Order can result in a
delay in filing & processing
your case. There is fee if this
office has to retrieve old
Orders on new actions.**

TAKE NOTICE !!!!

**INCOMPLETE and/or
ILLEGIBLE PLEADINGS WILL
BE DISMISSED WITHOUT A
COURT HEARING.**

Pleadings must be complete and clearly reflect what you are asking the Court to do. It is required that defendants/complaints be able to clearly understand what is being filed against them.

NOTE: JDR Clerk staff CANNOT give legal advice. You should contact an attorney.