

Rule 42. Contempt of Court

(a) Summary disposition. A contempt committed by a child may be disposed of summarily, and a contempt committed by an adult may be punished summarily, if the judge certifies that he saw or heard the conduct constituting the contempt and that it was committed in the actual presence of the Court. The order of contempt shall recite the facts and shall be signed by the judge and entered of record.

(b) Criminal contempt of an adult; disposition upon notice and hearing. A criminal contempt brought against a person who is not a child shall, except as provided in section (a) of this Rule, be prosecuted on notice. The notice shall state the time and place of hearing within the Criminal Division, allowing a reasonable time for the preparation of the defense, and shall state the essential facts constituting the criminal contempt charged and describe it as such. The notice shall be given orally by the judge in open court in the presence of the defendant or, on application of the Office of the Attorney General, or of an attorney appointed by the Court for that purpose, by an order to show cause or an order of arrest. The defendant is entitled to a trial by jury before the Criminal Division in any case in which an act of Congress so provides. He is entitled to be released on conditions. If the contempt charged involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the trial or hearing except with the defendant's consent. Upon a verdict or finding of guilt the Criminal Division shall enter an order fixing the punishment.

(c) Delinquency contempt of a child; notice and hearing. A criminal contempt brought against a child shall be treated as a delinquent act. Except as provided in section (a) of this Rule, criminal contempt against a child shall be prosecuted on notice to the respondent as follows:

(1) If the contempt is initiated by the Court, the notice shall state the time and place of hearing within the Family Court, allowing a reasonable time for the preparation of the defense, and shall state the essential facts constituting the criminal contempt charged and describe it as such. The notice shall be given orally by the judge in open court in the presence of the respondent or of an attorney appointed by the Court for that purpose, by an order to show cause or an order for custody.

(2) If the contempt is initiated by the Office of the Attorney General, the notice shall be given by the filing of a petition in accordance with the requirements of D.C. Code § 16-2305 and Juvenile Rule 7.

If the contempt charged involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the factfinding hearing except with the respondent's consent. Upon a finding of guilt, the Family Court shall enter an order of disposition in accordance with the applicable statutes and rules governing juvenile delinquency matters.

COMMENT

This Rule is similar to *FRCrP 42*. Section (a) was previously modified to provide that contempt committed in the presence of the Court by a child (as defined in D.C. Code § 16-2301(3)) be "disposed of" rather than "punished." This precludes action appropriate only for nonchildren, e.g., jail sentences. Section (c) sets forth procedures for contempt prosecution under D.C. Code § 11-944.