

Rule 12. Contempt

(a) Definition. Criminal contempt is a violation of the law, a public wrong which is punishable by fine or imprisonment or both. Civil contempt is a sanction imposed by the court to enforce compliance with a court order or to compensate a party for losses or damages caused by noncompliance with a court order.

(b) In the presence of judge.

(1) Summary contempt. Criminal contempt may be punished summarily if the judge certifies that he or she 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 on the record.

(2) Failure to appear. Willful failure to appear after proper service or signed notice is punishable as contempt.

(c) Motion for civil contempt. A motion seeking civil contempt alleging one or more violations of a temporary protection order or civil protection order shall be filed and served pursuant to Domestic Violence Unit Rule 3.

(d) Motion to adjudicate criminal contempt. A motion requesting that the court order a person to show cause why she/he should not be held in criminal contempt for violation of a temporary protection order or civil protection order may be filed by an individual, Corporation Counsel or an attorney appointed by the Court for that purpose. The motion may be referred to the United States Attorney for potential prosecution. The Court may order the Metropolitan Police Department to deliver such motion and the order to appear personally, to the individual, or to the individual's dwelling house or usual place of abode, and may issue a judicial summons for the person to appear. In the alternative, the movant may serve the person pursuant to Domestic Violence Unit Rule 3(b).

(e) Contempt hearing procedures.

(1) Upon the filing of a motion pursuant to section (c) of this rule, the Clerk shall schedule a hearing within a reasonable period of time. Upon the filing of a motion pursuant to section (d) of this rule, the Clerk shall schedule a status hearing with fourteen (14) days. If counsel represents the movant the movant does not have to appear at the status hearing.

(2) In criminal contempt proceedings the Court may appoint the movant Corporation Counsel or other attorney to prosecute the contempt charged. The Court shall give oral notice of the contempt charged in open court in the presence of the accused; upon the request of the movant, Corporation Counsel or an attorney appointed by the Court to prosecute the contempt, such notice shall be by an order to show cause. The notice shall state the essential facts constituting the criminal contempt charged. The Court shall appoint counsel for the accused pursuant to the Criminal Justice Act if the accused so qualifies or advise the accused of the right to representation by counsel, and set a date for ascertainment of counsel. The accused shall be released on conditions or detained as provided in *D.C. Code § 23-1321*, et seq., and the Superior Court Rules of Criminal Procedure.

(3) If the accused requests a continuance, the judge may grant it based on any one or all of the following conditions:

(A) that any existing temporary protection order or civil protection order be extended or modified;

(B) such other conditions as will ensure the safety of the moving party; and
(C) that the accused shall receive no further continuances.

(4) Both parties have the right to present sworn testimony of witnesses and other evidence in support of or in opposition to the motion. The accused shall not be compelled to testify or to give evidence in a trial for criminal contempt.

COMMENT

Enforcement by contempt is expressly authorized by *D.C. Code § 16-1005(f)*. The party alleged to be in contempt has no right to a jury trial under either the Constitution or the law of the District of Columbia as long as the penalty for such offense is not more than six months. Therefore, contempt proceedings may be heard by a single judge within the Domestic Violence Unit or Family Division, or may be certified to the Criminal Division for proceedings consistent with the above statute and this rule. The penalties prescribed for criminal contempt are set forth in *D.C. Code § 16-705*.