

Order to Show Cause (OSC) Hearing Handout

This handout provides information about the following issues involved in an OSC:

- 1) Mediation
- 2) Custody-Domestic Violence
- 3) Child Support
- 4) Spousal Support
- 5) Who Hears your Case-Judge or Commissioner
- 6) Tips to Prepare for your Hearing
- 7) Reminders about dress and behavior

Mediation

The Court requires Mediation before any hearing involving custody and visitation. The mediator's job is to help the parents try to reach a written agreement on custody and visitation. Each parent must contact the Court's Mediation or Conciliation office as indicated on the OSC Order to schedule the appointment. The mediation service provided by the court is free.

If you come to an agreement, bring a copy of it to your hearing. However, the agreement is not an order, and will not go into effect unless the judge makes it a court order at the hearing. If you do not reach an agreement, the judge will decide custody and visitation at your hearing. But, be sure to get a document from the Mediator stating that you attended mediation to show the judge at Court.

Custody - Domestic Violence

The Court considers 2 policies in granting child custody and visitation: 1) what is in the child's best interest; and, 2) that parents should have frequent and continuing contact with their child. However, the law assumes that giving custody to a parent that a court has found to have committed domestic violence within the past 5 years is harmful to the child. Therefore, this is an exception to the policy that parents should have frequent and continuing contact with their child. The judge may only consider giving some type of custody to the parent who has committed domestic violence if he/she proves:

- that awarding custody would be in the child's best interest
- that he/she has completed a batterer's treatment program
- that he/she has complied with any terms and conditions of probation, parole, or of a restraining order, and/or
- that he/she has not committed any further acts of domestic violence.

Child Support

The court in most cases is required to make the "guideline" order for child support. The child support guideline is determined by calculating:

- the income of both parties
- the amount of time the parent without custody spends with the child
- the expenses either party pays for the child

The court uses a computer software program which calculates the amount of child support based on these factors.

Evidence – Child Support

If you are requesting or disputing the amount of child support, the Court will want to review evidence (documents or testimony) such as:

- Proof of your income (pay check stubs from the last 2 months or more, and your most recent federal tax return).
- Proof of out of pocket expenses you have paid for the child (such as medical or school costs, and child care).

Spousal Support

The court's goal in awarding temporary spousal support is to maintain the lifestyle of the parties during the marriage. The court may make an order in any amount to do so. The court uses a computer software program to calculate the "guideline" amount based on the following factors:

- The income and expenses of both parties
- The financial need of the party requesting spousal support and the paying party's ability to pay

However, the Court will also take into account: 1) the standard of living while the parties were married; 2) that the spouse paying support now has to maintain 2 separate households; and, 3) whether there is a documented history of domestic violence.

When you are requesting a final judgment in your case, the court will consider additional factors in making a permanent spousal support order such as, the length of marriage, age, health, and the education levels of the parties.

Evidence – Spousal Support

If you are requesting or disputing spousal support, the Court will want to review evidence (documents or testimony) such as:

- Evidence of your income (your pay check stubs from the last 2 months or more, and 1 year of your most recent tax returns)
- Evidence of the other party's income, if you have any
- Evidence of your expenses

Who Hears your Case - Judge vs. Commissioner

If the bench officer presiding over your case is a commissioner, not a judge, you will have to sign a form agreeing that the commissioner can hear your case. The main difference between

the two is that a commissioner is a court official appointed by other judges while a judge is either elected or appointed by the governor.

If you do not wish for your case to be heard by a commissioner, you do not have to sign the form. However, you will be transferred to another court room or court house to have a judge hear your case. Also, there may not be a judge available on the same day, which means the court will have to reschedule your hearing.

Tips to Prepare for your Hearing

1) Speaking order

- If you are the party that filed the OSC, the "moving party," you will speak first.
- Then the opposing party will have a chance to respond to your statements.
- The moving party may then reply to the opposing party's claims.
- Each party must speak directly to the judge, never to the other party.
- At any time, the judge may ask either party questions about the case.

2) Know what you are going to say

- Review your court papers and for each main issue in your case, write down:
 - your request on that issue
 - any evidence that supports your request
 - a response to the other party's claims about that issue
- Your notes should not be more than one page.
- You may want to practice your presentation before going to court.

3) Be brief and to the point

- Use your notes to guide you when you speak and stick to what you have written down. You will likely only have five minutes at most to make your case.

4) Be accurate and honest when presenting your case

5) Only discuss relevant information

- You can only discuss issues that were in the initial OSC papers. If you raise others, the judge will stop you. The relevant issue for custody and visitation is what is in the child's best interest, not personal problems you may have with the other party.

6) Gather your evidence to present in court

- For both parties, gather documents (such as school and medical records) and get witnesses that support your request.
- If you are the opposing party, also gather documents and get witnesses that dispute the moving party's request.
- Organize your documents in the order that you will present them.
- You may bring witnesses to court, but the judge decides if they can testify.

7) Attend other OSC hearings

- Most court proceedings are public, and OSC hearings are normally held each day in the same department. Therefore, you can sit in on other hearings on a day before your own hearing to see how the process works.

Reminders

What to wear:

- a suit
- nice pants or slacks
- a shirt and tie
- a nice blouse or shirt
- a skirt or dress (at or past knee length with panty hose)

What not to wear:

- any clothes which show cleavage, your stomach, or underwear
- short skirts or shorts
- jeans
- a sleeveless shirt (including tank tops) or dress (unless with a sweater)
- any torn or stained clothing
- sweatpants or sweatshirts
- facial piercings (if removable)
- any type of hat

Behaviors to avoid while in court

DO NOT:

- Leave your cell phone on (vibrate is not okay)
- Chew gum
- Consume food or beverages
- Yell
- Throw things
- Call anyone names
- Interrupt the judge or the other party (including snickering, rolling your eyes, and shaking your head) – you will get your turn