

**Information about private criminal contempt enforcement of CPOs where
Statute and Case law are unclear**

from

**Survey of statutes and domestic violence advocates
Conducted by the Battered Women's Justice Project (Jan – March 2010)**

IOWA

Iowa Code § 664A.7 (2008)

“Violation of a no-contact order entered for the offense or alleged offense of domestic abuse assault in violation of section 708.2A or a violation of a protective order issued pursuant to chapter 232, 236, 598, or 915 constitutes a public offense and is punishable as a simple misdemeanor. Alternatively, the court may hold a person in contempt of court for such a violation, as provided in subsection 3.”

Advocates

“it is routine practice in Iowa for petitioners to proceed with own criminal contempt actions”

MARYLAND

Md. Family Law Code Ann. § 4-508 (2009)

Sanctions for violating order

(b) Contempt. -- A temporary protective order and final protective order issued under this subtitle shall state that a violation of the order may result in a finding of contempt.

Advocates

“petitioners may bring private criminal contempt actions . . . [but] because state usually handles violations, petitioners rarely have to file on own”

FLORIDA: Judges increasingly prosecuting contempts

Fla. Stat. Sec. 741.31 (2009)

petitioner shall be assisted in filing an affidavit of violation; “If the court does not issue an order of appointment of the state attorney, it shall immediately notify the state attorney that the court is proceeding to enforce the violation through criminal contempt”

Caselaw explicitly permits private interested prosecution of criminal contempt, *Gordon v. State*, 960 So.2d 31, 39 (Fla. Dist. Ct. App. 4th Dist. 2007), *op'n withdrawn by subst. op'n at 967 So.2d 357* (Fla. Dist. Ct. App. 4th Dist. 2007).

Advocates

“if DA chooses not to proceed with contempt, petitioner may file own affidavit for “civil” enforcement. . . .” But because funding for public prosecutions of domestic violence “has gone down,” victims can now “inform the judge that a violation has occurred, and the judge, on his own, can ‘prosecute’ the case against the violator.”

OKLAHOMA

22 Okl. St. § 60.6 (2009)

Makes violation of protective order a misdemeanor; repeat offense is felony.

Advocates

“judge may hold respondent in civil or criminal contempt for violation, does not specify who may bring action...”

SOUTH CAROLINA

S.C. Code Ann. § 20-4-60 (2008)

Order of protection; contents.

(B) Every order of protection issued pursuant to this chapter shall conspicuously bear the following language:

(1) "Violation of this order is a criminal offense punishable by thirty days in jail or a fine of two hundred dollars or may constitute contempt of court punishable by up to one year in jail and/or a fine not to exceed fifteen hundred dollars."

Advocates

“the victim can go directly to court to seek enforcement, which has to be done by filing a rule to show cause. . . The hearing is a family court contempt action on a rule to show cause and the remedies [include] agreement to comply in the future; or a finding of civil or criminal contempt, depending on the judge, which provision(s) were violated, and the severity of the violation.”

UTAH

Utah Code Ann. § 78B-7-106 (2009)

Protective orders -- Ex parte protective orders -- Modification of orders -- Service of process -- Duties of the court

(5)(c) The civil provision portion shall include a notice that violation of or failure to comply with a civil provision is subject to contempt proceedings.

Advocates

“the petitioner can file a motion for contempt in the protective order civil case. If found in contempt, the court can enter sanctions including: further restrictions, sentence of up to 30 days in jail.”