

# ENFORCEMENT OF DIVORCE ORDER

An orderly society requires that people accept and follow court orders.

## What happens if a Spouse does not follow a Divorce Order?

**NOTE: The following does not apply to failure to follow a relief from abuse order. There are special rules for such orders. (See #10, Divorce and Relief from Abuse)**

- Failure to follow a divorce order is a serious matter. The court can enforce its own orders through contempt in which the most drastic remedy is jailing the offending spouse. Before the court sends anyone to jail, however, the court will often first attempt to take less drastic steps to get people to do what the order says. The difference between enforcement and contempt is described below.

## What is a Petition or Motion to Enforce?

- A Petition/Motion to Enforce is a written request (you can ask the clerk for a form 823) asking the court to enforce an order. Typically, the Petition or Motion will state the date of the order that you want enforced, what the order says and which part is not being followed. You can ask the court to order the offending spouse to pay your costs for having to file the Petition or Motion to Enforce, and for having to prepare for the hearing and come to the hearing.
- You need to attach an affidavit (sworn statement) to the Petition to Enforce which outlines how the other spouse has violated the order. The Motion **MUST** be signed before a notary public.
- As with any motion, the other spouse (or ex-spouse) must be served with your Petition or Motion to Enforce, Affidavit and other paperwork before a hearing can be held. (See #25 Serving the Divorce Papers) Some courts will hold a status conference before a hearing is scheduled.

## What Happens at an Enforcement Hearing?

- The judge or magistrate will ask what part of the order has not been followed, and why. If possible, attempts will be made to work out the problems so that the order is followed. If the judge or magistrate has to order enforcement, the judge may also order that the costs and attorney's fees of the person who had to ask the court for help be paid by the person who did not follow the court order.

## What is Contempt?

- Contempt is willful disobedience of a court order when the obligated spouse has the ability or the capacity to comply with the order. If a spouse, or former spouse, has done everything possible to do what the order requires, the Court will not find the spouse in contempt. But if the Court determines that the spouse willfully failed to comply and had the capacity to comply, the Court may jail the spouse until such time as she or he complies with the order. Contempt is the last resort to make a spouse or former spouse follow court orders. Contempt is a matter with severe consequences. Motions for contempt are heard by the Family Court Judge.

(Please note that even if a non-custodial parent fails to pay court ordered child support, that is **NOT** a basis to refuse the parent parent-child contact. Conversely, if a custodial parent refuses to honor the non-custodial parent's visitation rights, that is also not a basis for the non-custodial parent to stop paying child support. To do either of these things will place you in danger of being found in contempt by the court.)

**You can obtain helpful information, as well as court forms at:  
[www.VermontJudiciary.org](http://www.VermontJudiciary.org).**